UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

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FDR SERVICES CORP. OF NEW YORK,

Case No. 29-RC-215193

Employer,

-against-

LAUNDRY DISTRIBUTION AND FOOD SERVICE JOINT BOARD, WORKERS UNITED,

Petitioner.

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FDR SERVICES CORP OF NEW YORK'S REQUEST FOR REVIEW OF THE REGIONAL DIRECTOR'S DECISION AND CERTIFICATION OF REPRESENTATIVE DATED APRIL 14, 2020

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

FDR Services Corp of New York (hereinafter, "FDR" or the "Employer") pursuant to Section 102.67 of the Board's Rules and Regulations, requests that the Board review and promptly reverse the Decision and Certification of Representative (the "DCR") issued by the Regional Director of Region 29, Kathy Drew-King, on April 14, 2020.[1]

SUMMARY OF ARGUMENT

FDR respectfully requests review of the DCR overruling FDR's objections to the conduct of the mail ballot election in this matter on the following grounds: (1) The Regional Director's decision on substantial factual issues is clearly erroneous on the record and such error prejudicially affects the rights of FDR; (2) a substantial question of law or policy is raised because of a departure from officially reported Board precedent; and (2) there are compelling reasons for reconsideration of an important board rule or policy.

PRELIMINARY STATEMENT

"There is no smoke without fire." – French Proverb

In this case involving a mail-ballot election, the evidence shows that the Petitioner, Laundry Distribution and Food Service Workers Joint Board, Workers United (hereinafter, the "Union" or the "Petitioner") cheated. Union employees testified that Union representatives offered to mark voter ballots. Union representatives admitted that they offered to drive voters to the post office, the Union further admitted that its representatives were in the homes of employees when those employees cast their votes. Though this objectionable conduct was undisputed, the Region chose to look the other way because, in its view, the Union prevailed in this election by over 100

[1] A copy of FDR's objections to the conduct of the election is annexed hereto as **Exhibit 1.** A copy of the DCR is annexed hereto as **Exhibit 2.**

votes. Rather than focusing on the fact that the Union's conduct destroyed the integrity of the election itself, the Region held FDR to the unworkable standard of proving that the Union tampered with the *majority* of the votes cast in the election. The Region's decision proclaims to every Union that it is acceptable to cheat in a mail ballot election as long as the Union wins by a large margin. If free and fair voter choice means anything, the Region's ruling simply cannot stand.

Board law makes clear that voters in a Board election must be able to cast their vote free from outside correction, intimidation, or irregularities. Regardless of whether such coercion, intimidation or irregularity may impact the outcome of an election, *any* deviation from this basic tenet would serve to undermine voters' trust in the outcome of elections as well as the public's trust in the Board's policies and procedures. The existence of laboratory conditions, crucial to every election, is all the more indispensable in a mail-ballot election because representatives of the Board are not present to supervise the conduct of parties and the voting of voters. Accordingly, in a mail ballot election, to ensure the protection of the Section 7 rights of employees, objectionable conduct of parties must be scrutinized strictly.

The Board has held that certain conduct impugns the integrity of the election itself. Union employees testified that the Union offered to mark ballots. Union representatives admitted that they offered to bring voters to a post office. The Union does not dispute that its representatives were in the presence of voters when they cast their votes. This conduct obliterates the integrity of the election and casts considerable doubt as to whether voters were able to cast their votes under laboratory conditions necessary to ensure a free and fair election. The integrity of this election was poisoned by the Union. As such, irrespective of the tally of the ballots, the Board should reverse the DCR, sustain FDR's objections, and order that the election be rerun.

The DCR ignored or mischaracterized key facts, misapplied Board precedent, and held FDR to an unworkable standard, all of which led to a flawed result. Indeed, the Board should reverse the DCR because credible evidence from disinterested witnesses established that agents of Union, multiple occasions, offered to mark the ballots of voters and remained present in the homes of voters casting their mail-ballots. Further, it is uncontroverted that Union representatives offered to bring voters to mailboxes to mail their ballots. Moreover, the record evidence established that Union representatives visited a statistically significant portion of the electorate. As well, record testimony establishes that there were comments in the workplace about the Union offering to mark the ballots of other employees. It is therefore presumable that the Union's objectionable conduct was by no means isolated or insignificant.

As far as the Region was is concerned, none of this objectionable conduct mattered because– given the margin of votes in favor of the Union (102) – the Region felt outcome of the election would not have been different despite the conduct underlying FDR's objections. In other words, the Region felt that cheating in a mail-ballot election is perfectly acceptable as long as the margin of victory is substantial. Put simply, the tally of ballots is simply not determinative here because even a single instance of the kind of objectionable conduct that happened here sufficient to impugn the credibility of the election (and therefore affect its outcome). Under the Region's flawed methodology, proving that the Union undercut the integrity of the election was not enough because FDR was also required to prove, with direct evidence, that the Union tampered with over 100 votes. To prove this, FDR would have to surveil the entire electorate (which it can't do). Or, FDR would have to rely upon the willingness of over 100 employees to speak out against their Union and shut down its operations to haul all of these employees in to testify at a hearing. As

many employees refrain from speaking out because of fear of retaliation from the Union, holding FDR to this standard is unrealistic and contrary to the purposes of the Act.

Because the Union offered to mark even a single single ballot, offered to effectively collect ballots by driving voters to a post office, and was present when voters cast their votes, laboratory conditions were destroyed and the integrity of the entire election was impugned. Moreover, Because the Union conducted many home visits, and record establishes that such tampering occurred on more than one occasion, it must be circumstantially inferred that the Union's objectionable conduct has been disseminated across the electorate. Thus, it becomes conceivable that each vote cast for the Union was poisoned by objectionable conduct. Therefore, it is entirely possible that the outcome of the election could have been different absent the objectionable conduct. Accordingly, the only remedy to restore the credibility of the election process in these circumstances is to set aside the results of the election - no matter what they are – and to direct a rerun election.

Overruling FDR's objections on the basis of the tally of the ballots only serves to communicate to parties that they are free to tamper with mail ballot votes, and that they will get away with it as long as the result of the election is not close. This cannot be the law. If it is, an employee's sacred Section 7 rights to freely make collective bargaining decisions will mean nothing.

Accordingly, FDR respectfully submits that the DCR was based on flawed factual findings and legal conclusions and it should be reversed. FDR's objections should be sustained and the election should be rerun to ensure free and fair voter choice.

STATEMENT OF THE CASE

FDR delivers full service linen management solutions to healthcare facilities across the East Coast. In or about 2013, FDR voluntarily recognized the Union as the collective bargaining representative of a unit of employees consisting of:

> "All of the employees of [FDR] except guards, confidential employees and supervisors as defined in the National Labor Relations Act."

See Collective Bargaining Agreement (the "CBA") annexed hereto as **Exhibit 3.**

Following the voluntary recognition of the Union, FDR and the Union entered into a CBA with a contract period that commenced on May 1, 2013 and expired on April 30, 2016. *See Id.*

On February 20, 2018, Brotherhood of Amalgamated Trades, Local 514 (hereinafter "Local 514"), filed a petition seeking to represent certain employees employed by FDR. The Union intervened on the basis of the CBA. On October 23, 2019, Local 514 requested permission to withdraw its petition. The Union objected to the withdrawal of the petition.

Pursuant to an Order Scheduling Mail Ballot Election and Approving [Local 514's] Request to Be Removed From Ballot issued by the Region on October 30, 2019, an election by mail ballot was conducted on November 8 among employees in the following Unit:

> "All full-time and regular part-time employees employed by [FDR], but excluding guards, office employees, clerical employees, confidential employees, and supervisors as defined by the Act."

See Hearing Officer's Report and Recommendations on Objections (the "RRO") annexed hereto as **Exhibit 4.**

197 employees were eligible to vote in the election. The majority of counted ballots were in favor of the Union, although over 70 voters did not vote and there were 17 challenged ballots.[2]

[2] The tally of ballots was as follows:

Approximate number of eligible voters	197

Following the election, FDR timely filed objections to conduct affecting the results of the election. FDR's objections to the election were premised on the following conduct that cast doubt on the results of the election: (1) within the 24 hour period preceding the mailing of ballots for the election, and thereafter, the Union continued to make coercive campaign speeches to assemblies of employees; (2) that the Union visited employees at their homes and engaged in coercive conduct by offering to mark employees' ballots; and (3) that the Region's decision to conduct a mail ballot election was improper.

On December 23, 2019, the Regional Director issued a Report on Objections and Notice of Hearing in which she overruled FDR's first and third objections and directed that a hearing be held regarding FDR's second objection addressing the conduct the Union during home visits to employees. RRO at 2. The hearing was held on January 21 and 22, 2020. On February 24, 2020, the Hearing Officer issued the RRO overruling FDR's second objection.

On March 9, 2020, FDR filed exceptions to the RRO and a brief in support of same. On April 14, 2020, the Regional Director issued the DCR overruling FDR's objections and certifying the Union as a collective bargaining representative.

FACTS RELEVANT TO FDR'S OBJECTION

At the hearing, Union witnesses testified that part of the Union's election strategy involved making home visits to FDR employees eligible to vote in the election. *See* Hearing Transcript ("TR") at 143. Union representative Alberto Arroyo ("Arroyo") testified that a "team" of Union

Number of void ballots	4
Number of ballots cast for Union	103
Number of votes cast against participating labor organization	1
Number of valid votes counted	104
Number of challenged ballots	17
Number of valid votes plus counted ballots	121

See RRO at 2.

personnel were assigned to conduct these home visits. TR. at 143. Two of the members of this "team" were Union representatives Dario Almanzar ("Dario") and Macia Almanzar ("Marcia"). TR. at 122-123. Additional members of the "team" of Union representatives were Edward Martinez, Alvaro Bottaro, and Martha Rodriguez. TR. at 123. Other Union representatives, such as assistant shop steward Maria Rivas ("Rivas"), spoke with FDR employees about their ballots both at their homes and at work. TR. at 82.

Dario testified that he knocked on the doors of 10 to 15 employees of FDR and spoke with one of them. TR. at 108. Marcia testified that she individually met with 10 to 12 unit employees in their homes. TR. at 113. As a Union representative, Dario had a personal interest in the outcome of the election, TR. at 101-105, a fact which the hearing officer failed to take into account when evaluating his credibility. Nevertheless, Marcia and Dario testimony establishes that they either spoke with or attempted to speak with a total of 27 unit members constituting nearly 14% of the electorate.

At the hearing, FDR presented testimony from three plant workers: (i) Angela Torres ("Torres"); (ii) Maria Robles ("Robles"); and (iii) Rena Rodriguez ("Rodriguez"). These disinterested witnesses, rank and file employees of FDR, each testified to specific acts of misconduct by Union representatives.

A. <u>Angela Torres</u>

Torres, a Union employee in FDR's ironing department has worked for FDR for over 30 years. TR. at 48-49. Torres received her mail ballot for the election in November or December. TR. at 49-50.

Torres testified that two Union representatives, whom she identified as Marcia and Dario, came to her house to discuss the ballot on two separate occasions. TR. at 50, 73. During the first

visit, Torres testified that Marcia and Dario "wanted to speak to me about the ballot, about how to fill it out, but I didn't let them in." TR. at 50.

Although Torres did not let Union representatives into her home during the first visit, she repeatedly testified that Union representatives offered to mark her ballot:

> Q: Did anybody from the Union, or with the Union, ask to mark your ballot
>
> A: **Yes.** They wanted to, but I didn't let them do that either.
>
> Q: Who wanted to mark your ballot?
>
> A: Those same ones, the lady and the man, Dario.

TR. at 51.

> Q: Did anyone from the Union, or anybody associated with the Union, or anybody associated with the Union offer to bring you to the post office to mail your ballot?
>
> A: Not directly to the post office, but they did offer to fill it out for you, to show you how to fill it out; that type of thing.

TR. at 57.

Torres further testified that she heard from other employees that Dario and the woman wanted to fill out other people's ballots. TR. at 52-53.

B. Maria Robles

Robles, a Union employee, works as a packer and has worked for FDR for approximately 19 years. TR. at 80. Robles received her mail ballot in November. Tr. at 81.

Robles testified that Rivas, an assistant shop steward for the Union, RRO at 4, offered to mark her ballot:

> Q: Okay. After you received the paper did anybody from the Union speak to you about the ballot?
>
> A: Well, one of my coworkers, she asked me, Maria, "Did you receive the ballot yet," and I told her, "No, because I can't fill it out,

> I don't even know how to read." Then she told me, "Bring it here and I'll help you fill it out,"[3] and I told her, "No, during work hours, no." Then she told me, "Then I'll go by your house tomorrow after I come out of work." So I said, "All right." But the next day when she came by she called me, and she told me, "I'm outside." And I told her, "I'm not home, I went out with my mother." And so I filled it out by myself.
>
> Q: The person who you're speaking to about filling out the ballot, do you remember her name?
>
> A: It's a coworker, Maria Rivas.

TR. at 82-83.

C. Rena Rodriguez

In addition to witness testimony establishing that Union representatives offered to mark ballots, testimony from Rodriguez, another FDR Union employee, established that Marcia, a Union representative, was present in her home when she marked her ballot:

> Q: Did anybody from the Union speak with you about the ballot?
>
> A: Yes.
>
> Q: Who from the Union spoke with you about the ballot?
>
> A: Marcia, I don't know her last name, but her first name is Marcia.
>
> Q: How do you know Marcia was from the Union?
>
> A: Well, I don't remember her last name, but I mean, I remember from her name.
>
> Q: That from her name, you remember her being with the Union?
>
> A: Yes. Just from the name I do, but the last name I don't remember.

[3] The Hearing Officer erroneously concluded that Rivas was merely offering non-objectionable "assistance with a mail ballot." RRO at 8. However, because Robles testified that she could not read, and that she could not fill the ballot out herself, it is inferable that Rivas offered to fill out the ballot for Robles.

> Q: Did Marcia speak with you about the ballot once, or more than once?
>
> A: Well, one time she came to my house and knocked at the door. She actually startled me, because she came without – without any notice. And then she asked me if the ballot had arrived. I told her, "Yes," but I didn't know what – what I was supposed to do. And I gave it to her, I was like, "Look, this is what I got." And I didn't know what to do, or what paper to put in what envelope, and she just sort of explained what I had to do.
>
> Q: What did Marcia say to you about the ballot?
>
> A: She told me what I had to do, where I had to sign, and where to put stuff, what envelope to put stuff in. **And then once I did it**, she asked me if I knew where there was a mailbox, and I told her, "No," to go send it, because she told me it had to be sent out before a certain date, to I don't know where. So she offered to take me to the mailbox, and I told her no, because I had to stay with my kids. So then I told her that I was going to tell my husband to put in the mailbox so that she would go away.

TR. at 87-88.

D. Dario and Marcia

A significant portion of the objectionable conduct described by FDR employees was undisputed by Union representatives Dario and Marcia.

For example, Marcia confirmed that she met with Rodriguez in her home and offered to give her a ride to the post office. TR. at 131-132. Marcia further testified that she offered to take other FDR employees to the post office to mail their ballots. TR. at 132.

Dario admitted that he was present with an FDR employee named Evelyn in her home when she cast her ballot:

> Q: Were you ever present when an FDR employee marked their ballot?
>
> A: Not in the same room, no.

Q: What does that mean, not in the same room? Was somebody marking a ballot in a different room?

A: When we went to visit her, she went to make her vote in the kitchen while we were in the living room.

Q: And that is Evelyn?

A: Yes.

TR. at 114.

Dario further confirmed that he also offered to take Evelyn to the post office to mail her ballot because: "according to her, you know, she didn't have a car…" TR. at 114.

ARGUMENT

Section 7 of the Act guarantees employees the basic right to choose whether or not they wish to be represented by a labor organization for collective bargaining purposes. The requirement that elections be conducted in a manner that also gives effect to employee choice is sacrosanct. Indeed, this principle is set forth in the Act, which states that the Board, "in each case" should "assure to employees the fullest freedom in exercising the rights guaranteed by this Act." *See* Sec. 9(a).

Board conducted elections support this right by providing a forum where employees may express their representation choices via secret ballot. Due to the overwhelming importance of such process, the NLRA mandates that the Board seek an election environment in which employees may freely and fairly cast votes reflecting their desires.

Accordingly, elections must be conducted under ideal "laboratory" conditions to ensure that the neutrality of the election process is preserved. *General Shoe Corp.,* 77 NLRB 124, 127 (1948). "[T]he Board [must go] to great lengths to ensure that the manner in which an election was conducted raises no reasonable doubt as to the fairness and validity of the election." *Jakel,*

Inc., 293 NLRB 615, 616 (1989).

An election must be set aside where "objectionable conduct *could* well have affected the outcome of the election." *Cambridge Tool & Mfg. Co.,* 316 NLRB 716 (1995) (emphasis added). Here, the evidence presented by FDR was largely credited by the hearing officer. RRO at 3-9. Yet, despite crediting the overwhelming majority of testimony from FDR's witnesses, the Hearing Officer erred by overruling FDR's second objection, by finding that no objectionable conduct occurred, despite the credited and unrebutted testimony of hearing witnesses.

In addition, the Regional Director erred by placing undue focus on the tally of ballots to determine if the alleged objectionable conduct could have affected the outcome of the election. Indeed, while the tally of ballots is a relevant factor when determining whether alleged objectionable conduct could have affected the results of the election, it is not the only factor. *See Sanitation Salvage Corp.,* 359 NLRB 1129 (2013). As noted by the DCR, the Union prevailed in the election by 100 votes. *See* DCR at 8. This number was central to the Regional Director's recommendation to overrule FDR's objection because, in the Regional Director's opinion, FDR did not proffer evidence that could have affected the results of this election. DCR at 7. The Regional Director not only failed to appreciate that the complained of conduct undercut the integrity of the election itself thereby warranting a rerun election itself regardless of the vote count, she also failed to consider the probable effect of the Union's conduct on the substantial number of individuals who did not vote in the election.

A. FDR ESTABLISHED THAT THE UNION ENGAGED IN OBJECTIONABLE CONDUCT

Here, it is unquestionable that laboratory conditions did not exist in the mail ballot election. And, contrary to the findings in the DCR, the evidence elucidated at the hearing clearly established that the union engaged in objectionable conduct by offering to mark employee ballots;

being in the immediate vicinity of voters who are voting; and by soliciting the collection of ballots by offering to drive voters to post offices.

In *Grill Concepts Services, Inc.*, 2019 WL 2869823 (NLRB June 28, 2019) the Board observed that offering to physically assist a voter with filling out a mail ballot or having voters record their votes in a Union representative's presence is objectionable conduct that is sufficient to "imper[il] the integrity of the mail ballots in this election." *See Id.*

Such blatant electioneering during the voting period would have been strictly prohibited during a manual election. In a manual election, electioneering while the employees are waiting to vote is prohibited because such conduct undermines the free choice of the employees voting:

> "Careful consideration of the problem now convinces us that the potential for distraction, last minute electioneering or pressure, and unfair advantage from prolonged conversations between representatives of any party to the election and voters waiting to cast ballots is of sufficient concern to warrant a strict rule against such conduct, without inquiry into the nature of the conversations. ***The final minutes before an employee casts his vote should be his own, as free from interference as possible.*** Furthermore, the standard here applied insures that no party gains a last minute advantage over the other, and at the same time deprives neither party of any important access to the ear of the voter."

Milchem, Inc., 170 NLRB 362, 363 (1968) (emphasis added; "[S]ustained conversation with prospective voters waiting to cast their ballots, regardless of the content of the remarks exchanged, constitutes conduct which, in itself, necessitates a second election."); *see also Claussen Baking Co.*, 134 NLRB 111, 112 (1961) (invalidating election where electioneering by employer occurred within 15 feet of the polls for about 15 minutes; "It is the province of the Board to safeguard its elections from conduct which inhibits the free choice of the voters, and the Board is especially zealous in preventing intrusions upon the actual conduct of its elections. In furtherance of this responsibility the Board prohibits electioneering at or near the polls."). As *Grill Concepts*

recognizes, the rules in mail ballot elections are no different.

Evidence at the hearing readily established that Union representatives offered to mark the ballots of FDR employees. Initially, Torres, testified quite clearly that Union representatives "offered to fill out" the ballot for her. TR. at 57. The Regional Director erred in failing to credit Torres' testimony. Unlike the Union representatives, who had a personal stake in the outcome of the election, *see* TR. at 101-105, Torres is a rank and file employee with FDR with little interest in the outcome of the election. While the stress and anxiety associated with testifying at a hearing may have impacted her demeanor, there was no reason to discredit her testimony.

In addition to Torres, Robles, another FDR employee, testified that Rivas, an assistant shop steward, offered to mark her ballot. Although the Hearing Officer found Robles to be credible, her findings regarding Robles' testimony erred in two critical respects. First, the Hearing Officer failed to find that Rivas' offer of "assistance" to Robles (who testified that she could not read and was unable to fill out the ballot herself), was an offer by Rivas to fill out Robles' ballot.

Furthermore, the Hearing Officer erred by failing to recognize that Robles was an agent of the Union. According to the now-expired CBA, Union shop stewards are charged to:

> "See that the terms, provisions, and intentions of this Agreement are carried out and further to handle under Article 27 (Grievance Procedure) such grievances as are referred to them."

See **Exhibit 3**, at Article 51.

Under the CBA's grievance procedure, the shop steward has the responsibility of presenting grievances to FDR at both the Step 1 and Step 2 levels. *See* **Exhibit 3**, at Article 27. According to Union witnesses, the role of the assistant shop steward is to perform all of the functions of the shop steward in the shop steward's absence. TR. 141. Thus, as assistant shop steward, Rivas was cloaked with more authority than just attending disciplinary meetings between

FDR and unit employees. Rather, as she was given all of the authority of a shop steward, she was an agent of the Union when she spoke with Robles about the ballot. *International Brotherhood of Teamsters, General Drivers, Chauffeurs and Helpers Local Union No, 886 (Lee Way Motor Freight, Inc.)*, 229 NLRB 832, 832-33 (1977) (holding that a shop steward was an agent of the union based upon the shop stewards authority to investigate and present grievances to management and to transmit messages and information from the union.).

In addition to offering to mark employee ballots, undisputed testimony established that Union representatives were present when more than one-unit employee cast their vote. With respect to this uncontroverted evidence, the Regional Director erred by finding that no objectionable conduct occurred. Just as it is unlawful to speak with prospective voters waiting to cast their ballots, *Milchem, Inc.,* 170 NLRB at 363, or to electioneer in close proximity to the polls, *Claussen Baking Co.*, 134 NLRB at 112, it is unlawful to remain in the home of a voter who is in the process of casting their ballot, even if the Union representative waits in the living room when the ballot is being filled out in the kitchen and even if the Union representative never handles the ballot. The moment when an employee votes in a Union election belongs to the employee alone. *Grill Concepts* correctly recognizes that having voters record their votes in a Union representative's presence is objectionable conduct that imperils the integrity of an election.

Uncontroverted evidence also established that Union representatives offered to transport workers to post offices to mail their ballots. This too constituted objectionable conduct.

In the DCR, the Regional Director erred by finding that the Union did not engage in objectionable conduct by offering to transport employees to the post office to mail their ballots. In *John S. Barnes Corp.,* 90 NLRB 1358 (1950), an employer did not engage in objectionable conduct by offering *all* employees transportation to the polls in cars that were driven by non-

supervisory personnel. By contrast, in this case, there was no widespread offer of transportation to all of FDR's electorate. Rather, the evidence indisputably established that Union representatives made offers of transportation to a lesser number of FDR employees. Additionally, unlike the employer's conduct in *John S. Barnes Corp.*, *union representatives* offered to drive employees to the post office. This conduct, which has the effect of giving the Union representatives prolonged access to voters in the course of casting their ballots, clearly destroys the laboratory conditions necessary for a free and fair election.

B. THE UNION'S OBJECTIONABLE CONDUCT AFFECTED THE OUTCOME OF THE ELECTION

In addition to her failure to rule that FDR established that the Union engaged in objectionable conduct, the hearing officer also erred by focusing solely on the tally of ballots when ruling that because the alleged objectionable conduct could have only affected two votes, and considering that the Union won by over 100 votes, the complained of conduct did not affect the outcome of the election. This finding rests on the premise that in order to uphold FDR's objection, FDR would have to produce direct evidence of objectionable conduct affecting each and every cast ballot.

Adopting this recommendation would hold FDR to an impossible and impermissible standard because it requires numerous employees to come forward and complain about Union misconduct, something that employees are unlikely to do because they fear retaliation by the Union. The palpable threat of union reprisal cannot be understated and is well recognized in Board precedent. Indeed, in *Randell Warehouse of Arizona, Inc.,* 347 NLRB 591 (2006) *("Randell 11"),* the Board pointed out that "unions also have ample means available to them to punish employees" who displease them:

> Once elected, a union has a voice in determining when employees

> will work, what they shall do, how much they will be paid, and how grievances will be handled. Just as some employers have used the means at their disposal for retaliation, some unions have used their influence and authority to retaliate against employees who displease them ... The opportunities for and means of reprisal available to unions may differ from those available to employers, but they are no less real or intimidating.

See Randell II, 347 NLRB at 594-595.

In addition, FDR simply could not subpoena the entire electorate to testify at the hearing. Doing so is not only impracticable, as it requires FDR to shut down its business, it would also prompt the union to file an unfair labor practice charge alleging that FDR engaged in unlawful intimidation.

As FDR could not subpoena the entire electorate, and as it is extremely unlikely that throngs of FDR employees would risk Union retaliation by coming forward and reporting objectionable conduct, the only other means by which FDR could have obtained direct evidence of election malfeasance tainting the majority of cast ballots would be through the extremely costly endeavor of surveilling Union representatives as they visited FDR employees at their homes. But, such surveillance would have been clearly impermissible under Board law. *See e.g. Elec. Hose & Rubber Co.,* 262 NLRB 186, 216 (1982) ("Without any explanation for a supervisor to be 'stationed' outside the voting area, it can only be concluded that his purpose in observing the event was to effectively survey the union activities of the employees and to convey to these employees the impression that they were being watched."). Appurtenant to such surveillance FDR would have to keep a list of people whose ballots were tainted by objectionable conduct in order to present "evidence" to the hearing officer to establish just how many votes were spoiled by Union malfeasance. This is similarly illegal under Board law. *See Int'l Stamping Co., Inc.,* 97 NLRB 921, 922 (1951) ("It has likewise been the policy of the Board to prohibit anyone from

keeping any list of persons who have voted, aside from the official eligibility list used to check off the voters as they receive their ballots."). Nonetheless, unless FDR came to a hearing leading a throng of employees willing to testify about objectionable conduct by their Union, then this is exactly what the Hearing Officer would have required of FDR to uphold its second objection.

The Union's objectionable conduct destroyed the "laboratory conditions" required in elections, and deprived employees of their right to vote free of interference or coercion by others. The rights involved in this case are not those of the Union or of the employer, but of the employees themselves. Their right to choose whether or not to be represented by the Union, through a secret ballot election without interference, is fundamental, and must be preserved at all costs:

> The rights involved are those of the employees. The right is to join or not to join a union. The right is to be exercised free from any coercion from any quarter. … The right of employees to a choice and a choice through the secret ballot should not be lightly disregarded. … Anything less disparages the rights accorded employees under Section 7 of the Act and may visit the sins of the employer on the employees. The struggle is between the employer and the union ***but the right to select is that of the employees***.

N.L.R.B. v. Lake Butler Apparel Co., 392 F.2d 76, 82 (5th Cir. 1968) (emphasis added).

To ensure employees may vote in an atmosphere promoting their free choice, the election must be conducted under "laboratory conditions:"

> "The "laboratory conditions" test represents an ideal atmosphere in which a free choice may be made by employees, protected from interference by employer, union, Board agent, or other parties. As to any conduct objected to as interference, the critical Board determination is whether the employees were permitted to register a free choice."

N.L.R.B. v. McCarty Farms, Inc., 24 F.3d 725, 728 (5th Cir. 1994).

Instead of requiring FDR to prove, by direct evidence, that misconduct tainted the majority of ballots cast, the proper standard to be applied here is whether the "objectionable conduct could

well have affected the outcome of the election." *Cambridge Tool & Mfg. Co.,* 316 NLRB 716 (1995). This standard is met where the Union's conduct, taken as a whole, had the '*tendency to interfere with employees' freedom of choice*. *NLRB v. Chicago Tribune Co*., 943 F.2d 791, 794 (7th Cir.1991); *McCarty Farms, supra,* 24 F.3d at 728. "An election can serve its true purpose only if the surrounding conditions enable employees to register a free and untrammeled choice for or against a bargaining representative." *Gen. Shoe Corp. (Nashville, Tenn.)*, 77 NLRB 124, 126 (1948).

The authority discussed above makes abundantly clear that an election tainted by interference by any party should be invalidated. The employee's right to free choice is paramount. When an election is conducted in an atmosphere where it is merely *improbable* that the employees' choice was not tainted by interference or coercion, the election should be set aside.

Where, as here, a Union engages in conduct that inserts itself in the Board's election machinery, gets in between a voter and his/her vote, obliterates laboratory conditions, and undercuts the integrity of an election, then such conduct has the *tendency to interfere with freedom of choice* and warrants setting an election aside regardless of the tally of ballots.

Indeed, in *Tidelands Marine Services*, 116 NLRB 1222 (1956), the Board set aside a manual election where one party's representative had extended access to an unsealed ballot box even though a Board agent was present and there was no evidence to indicate that anyone had tampered with the ballot box. In that case, the Board found that the party's access to the ballots "constitute[d] such a serious irregularity in the conduct of the election as to raise doubts as to its integrity and secrecy." Id. at 1224. Thus the conduct in *Tidelands* was severe enough to warrant setting aside the results of the election without regard to the tally of ballots.

It has been long recognized that manual elections better preserve the integrity of

representation elections. This is clear from the Board's own Case Handling Manual and Board precedent, which expressly favor manual elections. "The Board's longstanding policy is that representation elections should, as a general rule, be conducted manually." (NLRB Case Handling Manual, § 11301.2.) Even the case widely cited in support of mail ballot elections recites this rule as the starting point for evaluating the appropriate election procedure:

> "Because of the value of having a Board agent present at the election, the Board's long-standing policy, to which we adhere, has been that representation elections should as a general rule be conducted manually, either at the workplace or at some other appropriate location."

San Diego Gas & Elec., 325 NLRB 1143, 1144 (1998) (allowing for a mail ballot election where the voting employees worked in multiple offices throughout San Diego County, separated by up to 60 miles).

Concerns regarding the deficiencies of mail ballot elections have been expressed by representatives of the Board itself, as noted in Daniel V. Yager's monograph, *NLRB Agency in Crisis* (1996). Yager quotes comments from Richard J. Roth, Assistant Director of Brooklyn NLRB Regional Office, and Nina Rzymski, NLRB Region 6, Election Specialist, to the effect that:

> • The presence of a Board agent at an election gives employees a greater sense of security that their rights are being preserved over mail balloting;
>
> • The potential in a mail ballot election for interference by either party increases the likelihood of a second election having to be conducted because of misconduct;
>
> • By including ballots with other "junk mail" that employees typically receive, it "dilutes the seriousness of the process;" and
>
> • If the voter is confused or uncertain about the process, there is no official agent available to answer questions, increasing the likelihood that the voter will procrastinate and/or "find it easier to

not vote."

(*Id*. at 46.)

In a mail ballot election, the employees' homes during the voting period are akin to the voting line in a manual election. The importance of laboratory conditions is no less significant in a mail ballot election. In fact, that necessity is more pronounced, since there is no neutral monitor present to ensure that no party exerts improper pressure on the voters. Thus, the Board must police objectionable conduct in mail ballot elections more strictly than in manual elections.

Indeed, in *Fessler & Bowman,* 341 NLRB 932 (2004), Chairman Battista and Member Schaumber observed that where a party collects a single mail ballot, or solicits to do so, laboratory conditions are destroyed and, to restore the integrity of the process, the election must be set aside:

> "Contrary to our colleagues' decision to set aside the election only if the collected ballots of employees Deming and Gardyszewski turn out to be determinative of the election result, we would establish a bright-line rule that elections should be set aside, upon the filing of timely objections, whenever a party is shown to have collected or solicited mail ballots. As discussed above, such collection and solicitation constituted objectionable conduct that undermines the integrity of the electoral process itself. Thus, in order to restore that integrity, we would direct a new election, even if it cannot be shown that a particular number of objectionable events were outcome determinative."

Fessler & Bowman, 341 NLRB at 936.

FDR submits that the result should be no different when an offer to mark a mail ballot is made, or when an employee in a mail ballot election votes in the presence of a Union representative. A single instance of such conduct impugns the integrity of the election and the only recourse is to set the election aside.

Notwithstanding the foregoing, the fact that three employees came forward to testify about objectionable conduct strongly suggests that many more felt the same coercive effects. *See Steak*

House Meat Co., 206 NLRB 28, 29 (1973) (threat by employee against only one other employee held sufficient to induce fear in entire voting population; "However, the fact that the threats were directed at only one employee does not necessarily lead to the conclusion that no general atmosphere of fear and coercion existed."). Indeed, it is presumable from the undisputed direct evidence in this case that the Union's conduct was by no means isolated as Union witnesses admitted that they assigned a "team" of representatives to visit employee homes and only two members of this team visited a significant portion of the electorate. Although Union witnesses self-servingly denied offering to mark employee ballots, they admitted that voters voted in their presence and that they offered to bring other voters to post offices. Torres' testimony also establishes that offers by the Union to mark ballots was a topic of discussion in the workplace.[4]

Thus, it becomes conceivable that each vote cast for the Union was poisoned by objectionable conduct. It is likewise possible that the Union's conduct also had a coercive effect on the substantial number of employees who did not vote in the election.

All of this evidence aestablishes that the union's conduct had a direct and material influence on the electorate's freedom of choice. This is the critical inquiry. *NLRB v. Gulf States Canners, Inc*., 585 F.2d 757, 759 (5th Cir. 1978). *See also Exeter 1 A Ltd. P'ship v. N.L.R.B.*, 596 F.2d 1280, 1282-1283 (5th Cir. 1979) (threats by union representative against management personnel sufficient to influence election where employees might have taken the threats to apply to them if they did not vote in the union. "Simply put, this is no way to run an election."); *Home Town Foods, Inc. v. N. L. R. B.*, 416 F.2d 392, 395-396 (5th Cir. 1969) (denying enforcement due to pre-election misconduct by union).

Therefore, it is entirely possible that the outcome of the election could have been different

[4] Even if this testimony is not admissible to prove that the Union offered to mark other employees' ballots, it is still admissible for the purpose of establishing that Torres heard such comments in the workplace.

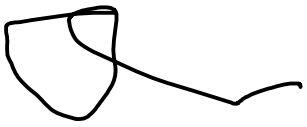
absent the objectionable conduct. And because it is conceivable that the outcome could have been different without the Union's malfeasance, the election must be set aside. As the court stated in *Home Town Foods*: "this is no way to run an election." The union's conduct would certainly not be tolerated even for a moment in a manual election, and there is no justification for allowing it in a mail ballot election, just as there is no authority or rationale for relaxing the "laboratory conditions" standard in a mail ballot election. The union stole this election from the employees through pressure, intimidation and coercion. The union engaged in this conduct with the intent of materially changing the outcome of the election, and the union's plan worked. Allowing the DCR to stand signals to all Unions that they are free to coerce voters in a mail ballot election, and that the Board will look the other way as long as the tally of ballots is not close. If an employee's freedom of choice in a Board election is truly sacrosanct, this cannot be.

CONCLUSION

For the foregoing reasons, the board should should reverse the DCR, set aside the alection, and order a new election so that eligible voters can decide, in an atmosphere free from improper conduct, whether they wish to be represented for purposes of collective bargaining by the Union.

DATED: May 12, 2020

KAUFMAN DOLOWICH & VOLUCK, LLP



Michael A. Kaufman, Esquire
Aaron N. Solomon, Esquire
Attorneys for Employer
FDR SERVICES OF NEW YORK

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

----------X
FDR SERVICES CORP. OF NEW YORK,

Index No.: 616109/2017 E

Employer,

-against-

LAUNDRY DISTRIBUTION AND FOOD SERVICE JOINT BOARD, WORKERS UNITED,

Petitioner.
----------X

AFFIDAVIT OF SERVICE OF: FDR SERVICES CORP OF NEW YORK'S REQUEST FOR REVIEW OF THE REGIONAL DIRECTOR'S DECISION AND CERTIFICATION OF REPRESENTATIVE DATED APRIL 14, 2020

I hereby certify that, on the 12th day of May, 2020, I served the above-entitled document(s) by the methods indicated below, upon the following persons at the following addresses:

By E-Filing
National Labor Relations Board
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Washington, DC 20240

By Electronic Mail
Kathy Drew-King
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And Electronic Mail
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HKolko@cwsny.com

Dated: May 12, 2020

Aaron N. Solomon

EXHIBIT 1

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December 9, 2019

VIA E-FILING
FACSIMILE (718) 330-7579
AND FEDERAL EXPRESS
Ms. Kathy Drew King
Regional Director
National Labor Relations Board, Region 29
Two MetroTech Center North, 5th Floor
Brooklyn, New York 11201

Re: FDR Services Corp. of New York, Inc.
Case No. 29-RC-215193

Dear Regional Director Drew King:

This firm represents the Employer, FDR Services Corp. of New York, Inc. (hereinafter "FDR" or the "Employer") in connection with Case No. 29-RC-185400. Pursuant to Section 102.69 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, FDR hereby objects to the conduct of the mail-ballot election commenced on November 8, 2019 and concluded on December 3, 2019 (the "Election"), and to conduct affecting the results of the election, as follows:

1. Within the twenty-four (24) hour period preceding the mailing of the ballots for the Election[1], and thereafter, the Union continued to make coercive campaign speeches to assemblies of employees. As the annexed affidavits show, on a date after which ballots were mailed, the Union held a captive meeting of employees, demanded that said employees vote for the Union, and offered to complete ballots on behalf of FDR employees. The Union's conduct in this regard unfairly and irreversibly tainted the Election and is grounds for setting aside the results of same. *See, e.g. Guardsmark, LLC* 363 NLRB 103 (2016); *Peerless Plywood Co.*, 107 N. L. R. B. 427, 429 (1953); *Shirks Motor Express Corp.*, 113 NLRB 753, 755 (1955).

2. During the Election, the Union, its representatives and agents subjected the employees of FDR to a reign of fear and intimidation which continued unabated

[1] Ballots were mailed on November 8, 2019

throughout the voting period. As the annexed affidavits show, representatives of the Union visited the homes of employees to mark their ballots in favor of the Union thereby destroying the sanctity of a secret ballot and robbing employees of their right to choose their bargaining representative under "laboratory conditions." Such conduct warrants setting the election aside.

Furthermore, FDR respectfully requests that it be issued a subpoena to obtain copies of the schedules, diaries, appointment books, and cellphone records of Dario Almanzar, "Marcia," and "Eddie" the Union's representatives who engaged in such conduct as such material, which is uniquely in the possession of said persons, will lend support to FDR's objection.

3. The NLRB's decision to conduct a mail ballot election was improper and, given the fact that FDR's employees reside in a limited geographical area, also afforded the Union the opportunity to destroy the sanctity of the mail ballot by engaging in the objectionable conduct described herein.

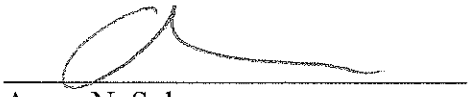
By these and other acts, the Union, by its agents and representatives, interfered with the right of employees to engage in protected activities, interfered with employees' free and untrammeled choice in the election, and thereby destroyed the laboratory conditions necessary for the fair conduct of the election. Laboratory conditions necessary for the fair conduct of the election were also otherwise destroyed.

These objections are being filed on this date pursuant to Section 102.114(f) of the Board's Rules and Regulations.

WHEREFORE, the Employer requests that the election be set aside and a new election ordered as soon as the Regional Director deems the circumstances permit, and such other relief be granted as is appropriate.

Dated: Woodbury, New York
December 9, 2019

Respectfully submitted,



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Encl.

cc: Laundry Distribution and Food Service Joint Board, Workers United
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00 Third Ave, Suite 2100
New York, New York 10022

4834-1618-0654, v. 1

EXHIBIT 2

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

FDR SERVICES CORP. OF NEW YORK
Employer

and Case No. 29-RC-215193

LAUNDRY DISTRIBUTION AND FOOD
SERVICE JOINT BOARD, WORKERS UNITED
Petitioner

DECISION AND CERTIFICATION OF REPRESENTATIVE

Pursuant to Section 102.69 of the Board's Rules, I have considered the exceptions filed by FDR Services Corp. of New York, herein called the Employer, to the Hearing Officer's report recommending disposition of objections filed to an election by mail conducted from November 8, 2019 to December 2, 2019.[1] The election was conducted pursuant to my direction.[2] The Tally of Ballots shows 103 ballots were cast for Laundry Distribution and Food Service Joint Board, Workers United (herein called the Union), and one ballot cast against the participating labor organization. There were 17 non-determinative challenged ballots. The Employer filed timely objections to the election.

On December 23, the undersigned issued a Report on Objections and Notice of Hearing overruling the Employer's first and third objections and directing that a hearing be held on the Employer's second objection. Pursuant to the December 23 Report, a hearing was held before a Hearing Officer on January 21 and 22, 2020.

On February 24, 2020, the Hearing Officer issued a Report in which she recommended that

[1] All dates hereinafter are in 2019, unless otherwise indicated. On November 8, the ballots were mailed by the Region to employees employed in the collective bargaining unit set forth in the parties' stipulated election agreement. Voters had to return their ballots so that they would be received in the Region 29 office by close of business on December 2.
[2] On February 20, 2018, Brotherhood of Amalgamated Trades, Local 514, herein called Local 514, filed a petition seeking to represent certain employees employed by the Employer. Laundry Distribution and Food Service Joint Board, Workers United intervened on the basis of a collective bargaining agreement. The parties entered into a Stipulated Election Agreement which I approved on September 25, 2019. On October 23, 2019, Local 514 requested permission to withdraw the instant petition. The Union, a full intervenor, objected to the withdrawal of the petition. On October 24, the Employer informed the Region that it would not permit the election to take place on its premises on October 25. The undersigned issued an Order Cancelling Election and Denying Local 514's Request to Withdraw the Petition. On October 30, I issued an Order Scheduling Mail Ballot Election and Approving [Local 514's] Request to Be Removed from Ballot.

the Employer's second objection be overruled.[3] As described more fully below, the Employer filed exceptions related to the Hearing Officer's recommendation to overrule its second objection, and a brief in support thereof. In response, the Union filed an Answering Brief to the Employer's Exceptions to the Hearing Officer's Report and Recommendations.

I find that the Hearing Officer's rulings made at hearing are free from prejudicial error and are hereby affirmed. I have reviewed and considered the evidence and the arguments presented by the parties and, as discussed herein, I agree with the Hearing Officer that the Employer's second objection should be overruled. Accordingly, I am issuing a Certification of Representative.

The Employer's Exceptions

The Employer's second objection alleges that the Union subjected employees to fear and intimidation, specifically by visiting employees at their homes during the mail ballot and offering to mark employees' mail ballots for them. The Hearing Officer's Report did not find that the Union engaged in objectionable conduct and recommended overruling the Employer's second objection. The Hearing Officer specifically found that: (1) the credible evidence shows that Union representatives Dario Almanzar and Marcia Almanzar did not solicit, mark, or collect mail ballots from any unit employees and that the Union did not solicit, mark or collect Torres' ballot; (2) the offer of Union representatives Dario Almanzar and Marcia Almanzar to take three to four employees to the post office to mail their ballots was not objectionable; and (3) the presence of two Union representatives in the homes of two voters while those voters voted did not affect the results of this election.

The Employer takes exception to the Hearing Officer's findings that the Union did not engage in objectionable conduct and that the Union's conduct did not affect the outcome of the election. In this regard, the Employer asserts that the credible evidence elicited from unit employees established that Union agents on multiple occasions engaged in objectionable conduct by offering to mark the ballots of voters, remaining in close proximity to voters casting their ballots and offering to bring voters to the post office/mail box to mail their ballots. The Employer argues that the aforementioned conduct destroyed the integrity of the election and that such conduct warrants setting aside the election regardless of the number of employees affected.

The Union takes the position that the Hearing Officer correctly found that it did not engage in objectionable conduct and that even if objectionable, its conduct did not affect the outcome of the election. The Union concludes that the Employer's exceptions should be dismissed, and the Hearing Officer's Report and Recommendations be affirmed.

Board Law

The Board applies an objective test in determining whether to set aside an election. The test is whether the conduct of a party has the tendency to interfere with the employees' freedom of

[3] On March 3, 2020, the Hearing Officer issued an Errata, correcting her February 24, 2020 Report. In this regard, among other things, a sentence on page 7 of the Report was corrected to read, "Under this legal standard, the Employer has not established that the Petitioner engaged in objectionable conduct;" and on page 9 to read, "I do not find that the presence of two Union representatives in the homes of two voters while those voters voted could have affected the results of the election."

choice. *Cambridge Tool Pearson Education, Inc.*, 316 NLRB 716 (1995).[4] Thus, under the Board's test the issue is not whether a party's conduct in fact coerced employees but whether the party's conduct reasonably tends to interfere with the employees' free and uncoerced choice in the election. *Baja's Place, Inc.*, 268 NLRB 868 (1984).

In *Grill Concepts Services d/b/a The Daily Grill*, 2019 WL 2869823 (NLRB Case No. 31-RC-209589, June 28, 2019) the issue before the Board was whether union representatives' offers to help employees with their mail ballots, including offers to help employees fill out their mail ballots, constituted objectionable conduct. The Board set forth the applicable law as follows:

> Generally speaking, union home visits during election campaigns are lawful and unobjectionable as long as the visitors do not threaten or coerce eligible voters during the visits. *Plant City Welding & Tank Co*., 119 NLRB 131, 133-134 (1957), revd. on other grounds, 133 NLRB 1092 (1961). If objectionable threats or coercion occur during home visits, the Board follows its usual practice of applying an objective standard in evaluating whether a party's conduct had the tendency to interfere with employee free choice in the election and thus warrants setting the election aside. See, e.g., *Taylor Wharton Division*, 336 NLRB 157, 158 (2001); *Phillips Chrysler Plymouth*, 304 NLRB 16, 16 (1991). The objecting party bears the burden of demonstrating that objectionable misconduct occurred and that it warrants setting the election aside. *St. Vincent Hospital, LLC*, 344 NLRB 586, 587 (2005); *Consumers Energy Co*., 337 NLRB 752, 752 (2002).

In *Fessler & Bowman, Inc*., 341 NLRB 932, 934 (2004), the Board recognized that as a Board agent is not present when an employee casts his/her ballot in a mail ballot election, mail ballots are accompanied by election kits that clearly specify the precise procedure for casting and returning the ballot. Where such procedures are not followed, and the mail ballots come into the possession of a party to the election, the secrecy of the ballot and the integrity of the election process are called into question. Thus, the Board unanimously found that the collection of mail ballots by a party is objectionable conduct that may be a basis for setting aside the election.

Analysis

As indicated above, the Employer takes exception to the Hearing Officer's failure to find that the Union engaged in objectionable conduct by offering to mark the ballots of voters, remaining in close proximity to voters casting their ballots and offering to bring voters to the post office/mail

[4] In making its determination as to whether the conduct has the tendency to interfere with employees' freedom of choice, the Board will consider: (1) the number of incidents of misconduct; (2) the severity of the incidents and whether they were likely to cause fear among employees in the bargaining unit; (3) the number of employees in the bargaining unit subjected to the misconduct; (4) the proximity of the misconduct to the election date; (5) the degree of persistence of the misconduct in the minds of the bargaining unit employees; (6) the extent of dissemination of the misconduct among bargaining unit employees; (7) the effect, if any, of misconduct by the opposing party to cancel out the effects of the original misconduct; (8) the closeness of the final vote; (9) the degree to which the misconduct can be attributed to the party. See, e.g., *Taylor Wharton Division*, 336 NLRB 157, 158 (2001); *Cedars-Sinai Medical Center*, 342 NLRB 596 (2004).

box to mail their ballots. For the reasons discussed herein, I reject the Employer's contention that the Hearing Officer erred in failing to find that the Union engaged in objectionable conduct.

Alleged Offers by the Union to Mark Ballots

The Employer contends that credible evidence shows Union representatives offered to mark the ballots of employees Angela Torres and Maria Robles. The Employer excepts to the Hearing Officer's failure to find that the Union representatives offered to mark these employees' ballots.[5] The Union asserts that the Hearing Officer properly concluded that Torres' testimony was not credible and denies that Maria Rivas offered to mark or physically assist Robles with her ballot.

The Testimony of Angela Torres

The Employer, in its exceptions, contends that the credible testimony of employee Angela Torres shows that Union representatives Dario Almanzar and Marcia Almanzar offered to mark Torres' ballot during a home visit. The Employer specifically argues that the Union representatives "offered to fill out" Torres' ballot. The Hearing Officer did not credit Torres' testimony, finding it vague and inconsistent. The Employer takes issue with the Hearing Officer crediting the testimony of Dario Almanzar and Marcia Almanzar, the two Union representatives that employee Angela Torres alleges visited her house, over the testimony of Torres. The Employer argues that the Union representatives have a personal stake in the outcome of the election[6] whereas employee Torres had little interest in the outcome of the election.[7]

With regard to the testimony at hearing on this matter, Torres initially testified on direct examination that Union representatives Dario Almanzar and Marcia Almanzar came to her house; she did not let them in, but that they wanted to come in and speak to her about the ballot and how to fill it out.[8] When specifically asked in a leading manner on direct examination whether anyone from/associated with the Union asked to mark her ballot, Torres responded, "Yes. They wanted to, but I didn't let them do that either." (Tr. 52). Thereafter, when Torres was asked on direct examination whether anyone from or associated with the Union offered to bring her to the post office to mail her ballot, Torres responded, "Not directly to the post office, but they did offer to fill it out for you, to show you how to fill it out; that type of thing." (Tr. 57) On redirect examination, Torres testified that the Union representatives visited her house twice; that "they" were also outside the Employer's facility; and that "they" said, "Here, I want to show you how to write, what to do." (Tr. 73). Dario Almanzar testified that he did not offer to mark any employees'

[5] The Employer does not contend that the Union offered to mark the ballot of Rena Osoer Rodriguez.

[6] Record testimony indicates that the union representatives wanted the Union to win the election.

[7] Torres' testimony indicates that she did not support the Union.

[8] The Hearing Officer noted that Torres could only identify the second representative as "Marcia" after reviewing an affidavit that she had previously given. The affidavit was previously prepared by the Employer and submitted with the Employer's offer of proof. Torres testified that the Employer's owner was present with the Employer's attorney while she gave her affidavit. At the hearing on cross examination, Torres testified that she was careful to include "everything that [the Union] had done to her" in this affidavit. The Hearing Officer noted on the record that there was no mention of a home visit in the aforementioned affidavit. (Tr. 69).

ballot and that his only home visit was to an employee named Evelyn.[9] Marcia Almanzar specifically testified that she did not meet with employee Angela Torres.[10]

After careful examination of the record, I am not persuaded that the Hearing Officer's credibility findings are incorrect. Accordingly, I reject the Employer's assertion that the credible evidence establishes that the Union offered to mark Torres' ballot.

Testimony of Maria Robles

The Employer also contends that employee Maria Robles testified that an agent of the Union offered to mark her ballot. Specifically, the Employer contends that assistant shop steward Maria Rivas offered to mark Robles' ballot. However, according to the testimony of Robles, after Robles told her co-worker Maria Rivas that she could not fill out her ballot because she did not know how to read, Rivas offered to help her fill it out.[11] Rivas offered to go to Robles' house to help her. When Rivas called Robles the next day after work, Robles told Rivas that she was not home. Robles testified that she filled out her ballot by herself. The Employer asserts that because Robles testified that she could not fill out the ballot as she did not know how to read, it is inferable that Rivas offered to (physically) fill out the ballot for Robles. In this regard, it is noted that Rivas testified that she asked Robles if she had received her ballot and Robles advised Rivas that she had received the ballot but that she was confused by the different envelopes. According to Rivas, Robles sought her help to understand the process of the envelopes.[12] Rivas specifically testified that she did not offer to mark or collect Robles' ballot.[13] I find that the record testimony is inadequate to establish that any mail ballot solicitation occurred or that Rivas offered to mark Robles' ballot or otherwise physically assist Robles with her ballot. Similarly, the evidence does not establish that Rivas sought to have Robles record her vote in the presence of Rivas, or that Rivas engaged in any other conduct that could reasonably be viewed as coercive or imperiling the integrity of the mail ballots in this election. In these circumstances, I agree with the Hearing Officer's finding that even assuming Rivas is an agent of the Union, the offer to help Robles with her ballot is not objectionable.[14] See e.g. *Grill Concepts, supra.* (where the petitioner's witnesses who were present during the home visits in question consistently testified that they merely asked eligible voters whether they had received their mail ballot and offered to explain the process for correctly filling out the ballot and the employer's witnesses were equivocal or non-definitive as to what exactly occurred when the union representatives offered to "help" them with their mail ballots, the Board found the record did not establish that any solicitation of mail ballots occurred during the home visits and that the offers to help employees with their mail ballots were not otherwise objectionable).

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[9] The Hearing Officer credited the testimony of Dario Almanzar, which also included testimony that he did not mark any employees' ballots or offer to mail any employees' ballots.

[10] Marcia Almanzar's testimony shows that she spoke to employees about how to fill out ballots because many of the employees could not read the ballot, that she did not physically help any employee fill out their ballots and that she was not present when any employee voted. The Hearing Officer credited the testimony of Marcia Almanzar.

[11] Tr. 82.

[12] Tr. 162-163, 174.

[13] The Hearing Officer credited both Robles and Rivas, finding their testimony substantially consistent.

[14] Moreover, as noted by the Hearing Officer, the evidence presented at hearing does not establish that Rivas acted as an agent of the Union while talking to Robles about her mail ballot.

Offering to Drive Employees to the Post Office

The Employer's exceptions also contend that contrary to the findings of the Hearing Officer in her Report, the evidence at hearing established that the Union engaged in objectionable conduct by soliciting the collection of ballots by its representatives offering to drive voters to post offices. While the Employer apparently contends that the offer to drive employees to the post office or a mailbox constitutes solicitation of ballots, it also contends that inasmuch as the Union failed to offer to bring all employees to the post office, the offer is objectionable. The Union contends that offering to drive employees to the post office is lawful and unobjectionable.

The Hearing Officer found that the evidence shows that Union representatives Dario Almanzar and Marcia Almanzar offered to take three to four employees to the post office to mail their ballots as they knew the employees did not have cars to drive themselves and that there is no evidence that either Union representative made these offers in a discriminatory manner.[15] Indeed, there is no evidence to establish that the Union representatives only offered to bring pro-union voters to the post office. I also note that there is no evidence that the Union representatives sought to have the employees turn over their ballot to the Union's representatives. Rather, the offer was to bring the employee to the post office so the employee could mail the ballot. Accordingly, there is insufficient evidence of any solicitation of mail ballots when Union representatives offered to drive voters to the post office, and I agree with the Hearing Officer's finding that such conduct is unobjectionable. See e.g. *Grill Concepts, supra.* (where the evidence established that union representatives offered to drive eligible voters to the post office to mail their ballots, the Board did not find that any mail ballot solicitation occurred and affirmed the regional director's decision to certify the union). Accordingly, I reject the Employer's contention that the Hearing Officer erred by finding the Union representatives' offers to drive employees to the post office unobjectionable.

Presence of Union Representatives While Employees Were Voting

The Employer contends that the Hearing Officer erred in failing to find that the Union representatives' conduct of remaining in employees' homes while the employees voted constitutes objectionable conduct. The Employer asserts that such presence in an employee's home while he/she votes is objectionable, even if the Union representative remains in a different room while the employee votes. The Union argues that the evidence does not establish that its representatives were in the employees' presence while they were voting and that the Employer failed to meet its burden of establishing the existence of objectionable conduct.

The Hearing Officer found that Union representatives were present in two employees' homes while these employees voted. In this regard, Union representative Dario Almanzar testified that he visited the home of an employee named Evelyn and that Evelyn completed her mail ballot in the kitchen while he was in another room in her home (the living room). Additionally, employee Rena Osoer Rodriguez testified that Union representative Marcia came to her house and asked her if she received her ballot. Rodriguez testified that she "did not know what to do, what paper to put

[15] There is no evidence that any employee accepted the Union representatives offer. Rather, the testimony at hearing shows that employees Rena Rodriguez and Evelyn declined the Union representatives' offers to take them to the post office.

in what envelope" and Marcia explained the process to her. Specifically, Rodriguez testified that Marcia "told me what I had to do, where I had to sign, and where to put stuff, what envelope to put in. And then once I did it, she asked me if I knew where there was a mailbox."[16] Marcia offered to take Rodriguez to the mailbox, but Rodriguez declined. While Rodriguez' testimony indicates that Union representative Marcia was present at employee Rodriguez' home while Rodriguez voted, Rodriguez' testimony does not provide details about what room she was in when she completed her ballot or whether Marcia was present in the same room with her when she voted. And, Union representative Marcia testified that she was never present while an employee of the Employer filled out their ballot. The record does not establish that there were any other instances of employees voting while Union representatives were in their homes.

Thus, although the evidence shows that Union representatives were in two voters' homes while the voters completed their ballots, the evidence is insufficient to establish that the Union representatives physically assisted voters in filling out their ballots, that any voter completed a ballot in the presence of a Union representative or that any voter's marked ballot was in view of a Union representative in the home.[17] Further, the evidence indicating that Union representatives were in the homes of voters while the voters completed their ballots, standing alone, does not establish that the Union representatives engaged in conduct that could reasonably be viewed as coercive or impugning the integrity of the election. Indeed, the Board has found that the mere presence of one of the parties to an election at or near the polling area is not *per se* objectionable. In this regard, I note that while using a union official as an election observer is not preferable, the Board has held that absent evidence of misconduct, service by a union official as an election observer at a polling place is not grounds to set aside a representation election. See e.g.; *Longwood Security Services, Inc.*, 364 NLRB No. 50 (2016); *NLRB v. Black Bull Carting, Inc*. 29 F.3d 44, 46 (2nd Cir. 1994). Similarly, the Board has held unobjectionable the presence of supervisors in a polling area where there was a legitimate purpose for such presence. See *Equitable Equipment Company, Inc*., 214 NLRB 939 (1974) (where the presence of 86 foremen, later found to be supervisors, in the polling area, was an inadequate basis to set aside an election.)

However, even assuming that the Union representatives' conduct, i.e., remaining in the homes of the two voters while the employees completed their ballots, is objectionable, I find that such conduct does not warrant setting aside the election. In this regard, the Board has held that where impugned votes are isolated instances and are not sufficient to affect the outcome of the election, as in the instant case, it will not set aside an election. See e.g., *Contintental Bus Systems, Inc*., 104 NLRB 599, 602 (1953) (where the Board found that even assuming there was an instance of an employee completing his mail ballot in the union office and the marked ballot was in plain view of several union representatives, such was insufficient to warrant a hearing or setting aside the election, noting that the isolated instance could not have affected the results of the election). Here, there were only two instances of the alleged misconduct involving two votes in a unit of approximately 197 employees, there is no evidence of dissemination, and the Union won by a

[16] Tr. 88.

[17] With regard to a party meeting its burden to demonstrate whether the integrity of an election is compromised generally, See e.g. *St. Vincent Hospital, LLC*, 344 NLRB 586, 587 (2005) (where the record failed to establish that the secrecy of the ballots was impugned as a result of two employees' simultaneous presence in the voting booth, the Board held the employer failed to demonstrate that objectionable conduct occurred, noting that there was no evidence that the two employees had even marked their ballots while they were in the voting booth together).

substantial margin of victory (about 100 votes).[18] With such a substantial margin of victory, these two votes would not have affected the outcome of the election.

I note that the Employer argues that even one instance of a Union representative remaining in the home of an employee while the employee is completing his/her ballot warrants setting aside an election. The Employer cites the position of Chairman Battista and Member Schaumber in *Fessler & Bowman, supra* at 936*,* that they would establish a bright-line rule that elections should be set aside, upon the filing of timely objections, whenever a party is shown to have collected or solicited mail ballots, even if it cannot be shown that a particular number of objectionable events were outcome determinative. However, in the absence of a majority to adopt their position, Chairman Battista and Member Schaumber agreed to remand the case to the regional director for resolution of challenged ballots to determine whether the objectionable conduct could have affected the election result. Further, in the instant case, there is no evidence of mail ballot solicitation or collection as there was in *Fessler & Bowman*.

In the circumstances set forth above, and considering the substantial margin of victory, there is insufficient evidence to establish that the Union's conduct reasonably tended to interfere with the employees' free and uncoerced choice in the election. Thus, I agree with the Hearing Officer's recommendation to overrule the Employer's second objection.

CONCLUSION

Based on the above and having carefully reviewed the entire record, the Hearing Officer's Report and Recommendations on Objections, the exceptions and arguments made by the Employer and the arguments made by the Union, I overrule the Employer's second objection, and I shall certify the Union as the representative of the appropriate unit.

IV. CERTIFICATION OF REPRESENTATIVE

IT IS HEREBY CERTIFIED that a majority of valid ballots has been cast for Laundry Distribution and Food Service Joint Board, Workers United, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

> All full-time and regular part-time employees employed by the Employer, but excluding guards, office employees, clerical employees, confidential employees, and supervisors as defined by the Act.

REQUEST FOR REVIEW

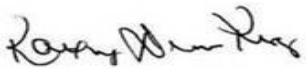
Pursuant to Section 102.69(c)(2) of the Board's Rules and Regulations, any party may file with the Board in Washington, D.C., a request for review of this decision. The request for review must conform to the requirements of Section 102.67(e) and (i)(1) of the Board's Rules

[18] The tally of ballots in the election shows 103 ballots were cast for the Union, one ballot was cast against the Union and there were 17 non-determinative challenged ballots.

and must be received by the Board in Washington by **April 28, 2020.** If no request for review is filed, the decision is final and shall have the same effect as if issued by the Board.

A request for review must be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Dated at Brooklyn, New York, on April 14, 2020.



Kathy Drew King
Regional Director, Region 29
National Labor Relations Board
Two MetroTech Center
Brooklyn, New York 11201

EXHIBIT 3

CONTRACT

BETWEEN

FDR SERVICES CORP. OF NEW YORK

AND

LAUNDRY, DISTRIBUTION AND FOOD SERVICE JOINT BOARD

May 1, 2013

THROUGH

April 30, 2016

Hempstead, New York

TABLE OF CONTENTS

Page

TABLE OF CONTENTS
(continued)

Page

THIS AGREEMENT made as of May 1, 2013 between FDR Services Corporation of New York, with offices at 44 Newmans Court, Hempstead, NY 11550 (hereinafter referred to as the "Employer" or "FDR") and Laundry, Distribution and Food Service Joint Board, with offices at 18 Washington Place, 2nd Floor, Newark, NJ 07102 (hereinafter referred to as the "Union") (the "Agreement"). Employer and the Union may hereafter be referred to as the "Party" or "Parties."

In consideration of the mutual promises hereinafter set forth, the parties agree as follows:

1. **UNIT DEFINITIONS:**

A. The term "employee" or "worker" when used in the Agreement, includes all of the employees of the Employer except guards, confidential employees and supervisors as defined in the National Labor Relations Act ("Excluded Categories").

B. The term "Unit" shall mean employee or worker as defined herein. No one in the Excluded Categories shall engage in production or merchandise transportation except insofar as emergencies arise because of the unavailability of employees or because of customer requirements.

C. Union shall mean the Laundry, Distribution and Food Service Joint Board.

D. Employer shall mean FDR Services Corporation of New York.

E. Unless otherwise defined in the Agreement, the term "Inside Production" shall include soil sorter, washer operator, washroom loader, porter, distribution loader, washfold, fluff; OR, flatwork, resident clothes, uniform and mending and any other handlers of linen.

F. Unless otherwise defined in the Agreement, the term "Mechanics" shall include individuals performing repair or installation of industrial machinery, performing repair work on autos or trucks, performing electrical work on premises or performing work on the structure.

G. The term "Drivers" shall mean any employee delivering or picking up linen, including Class A and Class B drivers.

H. The term "Drivers Helper" shall mean any employee assisting drivers in the delivery or pick-up up of linen on vehicles at customers.

I. Hospital-Based Employees shall mean any employee hired by FDR to work inside a customer's facility primarily to physically distribute linen inside the Hospital and has no management responsibilities.

J. The above definitions are subject to change if FDR hires additional categories of workers.

2. RECOGNITION:

A. The Employer recognized the Union as the exclusive bargaining representative of the employees.

B. The Employer shall recognize and deal with such representative as the Manager of the Union may designate and shall permit such designated representative to visit the plant during working hours provided that there shall be no interference with production or disruption of FDR's operations. Such representative must conduct him/herself with proper decorum. Upon arrival to the building, the representative must check in with the General Manager, or if the General Manager is not available, then with the next in charge.

C. The Employer agrees to make available to the Union such payroll and production records as the Union may reasonably require as the collective bargaining agent in connection with handling and resolving individual grievances.

D. All official correspondence between the Parties will be in writing and shall be either personally delivered, mailed by first class mail (return receipt requested), sent by overnight courier service or by facsimile (with proof of transmission) to:

Notice to the Employer:

FDR Services Corp.
Attention: Mr. Keith Luneburg, President
44 Newmans Court

Hempstead, NY 11550

Phone: 516-933-4040
Fax: 516-933-9441

When appropriate, the Union may copy the local general manager.

Notice to the Union:

Laundry, Distribution and Food Service Joint Board
Attention: Mr. Wilfredo N. Larancuent, Manager
18 Washington Place, 2nd Floor
Newark, NJ 07102
973-735-6464 Phone
973-735-6465 Fax

3. NON-DISCRIMINATION:

A. The Employer shall not discriminate against or among employees or applicants for employment on the basis of the employees' or applicants' race; color; national

origin; ethnic heritage; citizenship; immigration status; religious creed or lack thereof, political beliefs or affiliations; gender; sexual orientation or preference; change of sex; marital status; age (as provided by law); or qualified disability as defined by the Americans with Disabilities Act.

B. The Employer shall not request information or documents from workers as to their immigration status, except as required by law.

C. Should an Immigration and Naturalization Service (INS) agent demand entry to the Employer's premises or any opportunity to interrogate, search or seize the person or property of any employee, then the Employer shall immediately notify the Union Steward or President.

D. Nothing in this Article shall require the Employer to violate the law.

4. UNION SHOP:

A. Membership in the Union on and after the 30th day following the beginning of employment of each employee or following the execution date of this Agreement, whichever is the later, shall be required as a condition of employment, except where prohibited by law.

B. All employees who are now members or hereafter become members of the Union must remain in good standing during the terms of this Agreement as a condition of employment.

C. All Union-recommended applicants shall be considered for employment by the company, provided that FDR is not obligated to hire a Union-recommended applicant over any other applicant.

D. The Employer shall notify the Union of the new employees hired within fourteen days of their hire.

E. The Employer shall send the Union all names of all employees who have left their employment during any week. Such notification shall be sent within 48 hours of such termination.

F. Upon request of the Union, the Employer agrees to furnish the Union with a-list of employees in the bargaining unit, including each employee's name, a social security number, department, title, home address, phone number, date of hire and rate of pay (to the extent such information is both available and maintained in a computer readable form, the same to be furnished in a computer readable form. This request cannot be made more than quarterly unless to investigate or settle a grievance.

5. NEW EMPLOYEES AND TRIAL PERIODS:

A. New employees may be employed for the following trial periods:

Inside Production and Office Employees	45 calendar days
Experienced Route Employees	45 calendar days
Inexperienced Route Employees	45 calendar days
Employees promoted to Route Employees	45 calendar days

The Parties may by mutual written agreement extend the trial period.

B. The Employer may require the employee to be bonded, at the Employer's cost.

C. The Employer may require the employee to submit to a physical examination - including alcohol and drug testing procedures - upon hiring, at the Employer's cost. In addition, the Employer shall pay for the required physical examinations for drivers. Drivers hired in Paterson following the effective date of this Agreement shall not be eligible to have required physical examinations paid for by the Employer until they have completed two (2) years of service. Employees who come in contact with soiled laundry shall be provided the necessary inoculations at the Employer's expense.

6. **UNION DEDUCTIONS:**

A. Check-off of Service Charges:

Provided the Employer has been furnished a duly signed and properly executed written authorization form, the Employer agrees to deduct from the wages of each of its bargaining unit employees each week in which an employee has earnings such monies as have been authorized by the employee in writing to be so deducted for transmittal by the employee in writing to be so deducted for transmittal to the Union, unless and until such authorization is revoked in accordance with its terms. The total amount so deducted each month by the Company shall be remitted to the Union with a statement for same attached no later than the thirtieth (3061) day of the following month.

The Union will notify the Company in writing of the exact amount of such monies to be deducted and will furnish to the Company a current copy of such authorization form.

B. The Employer shall deduct and transmit to the treasurer of the Workers United For Political Power Campaign Committee the amount specified for each week worked from the wages of those employees who voluntarily authorize such contributions on the forms provided for that purpose by the Workers United For Political Power Campaign Committee. These transmittals shall occur no later than the 15th day of each month, and shall be accompanied by a list of the names of those employees for whom such deductions have been made and the amount deducted for each such employee.

C. In the event that the Employer fails or refuses to make such remittance in the full amount within one week from the date due, the Union, after providing written notice, anything contained in this Agreement to the contrary notwithstanding, may

take whatever action it deems appropriate under the circumstances to enforce such payment, funds recoverable shall be limited to the amount that is owed. Sums deducted by the Employer as union dues, initiation fees and Workers United For Political Power Campaign Committee contributions shall be kept separate and apart from the general funds of the Employer and shall be deemed trust funds.

7. WAGES, MINIMUM RATES, BASE RATES, AND GUARANTEES:

A. NEW HIRE WAGES

Effective May 1, 2013, new employees will be paid the following minimum hiring rates as follows:

	Hiring Rates
Inside Production	$7.50
Washer Operator	8.50
Washroom Loader	7.90
Engineers	14.87
Machinists	12.86
Porter	7.75
Hospital Based	8.50
Truck Loader	8.00
Class A Truck Driver	16.65
Class B Truck Driver	14.65

B. JOB RATE INCREASES

Effective May 1, 2013, employees not making the below Job Rate, shall be given quarterly wage increases beginning August 1, 2013, of $.25 cents (or a lesser amount needed) to bring the employee to the below minimum Job Rates.

	Job Rates
Inside Production	$8.50
Washer Operator	9.50
Washroom Loader	8.90
Engineers	15.87
Machinists	13.86
Porter	$8.75
Hospital Based	9.50
Truck Loader	9.00
Class A Truck Driver	17.65
Class B Truck Driver	15.65

C. ANNUAL INCREASES FOR CURRENT EMPLOYEES

Effective May 1, 2014, employees employed for one year or more will receive the following raises to their hourly rates during the term of the Agreement:

a. Inside Production and Hospital-Based Employees

	5/1/2014	5/1/2015	
Increase	.40 cents	.40 cents	

b. Mechanics/Drivers

	5/1/2014	5/1/2015	
Increase	.50 cents	.50 cents	

c. Employees who work less than the full year will receive a pro-rated increase.

d. Wages provided for herein shall at all times during the term of this Agreement or any renewal thereof, be not less than .20 cents an hour above any applicable Federal minimum wage law.

e. In the event an employee received an hourly wage increase as a result of an increase in Federal, State or Local law increasing the minimum hourly wage rate, the amount of such employee's future wage increase(s) hereunder, shall be reduced by such statutory wage increase(s).

D. If an employee is temporarily assigned to a lower paid job, the employee will be paid at the rate of his/her regular classification. An employee assigned to a higher classified job will be paid at the Hiring Rate for such a job or at his/her regular rate, whichever is higher.

E. In the event that the Employer shall grant increases in any wage scale herein contained because of federal, state, or local legislative mandate pertaining to minimum wages, then future wage increases set forth herein shall not apply to those affected employees until full credit for increases given as a result of any such legislative mandate is given to such affected employees.

Employees performing lead functions will earn a $0.25 per hour differential, after a 60 day probationary period, a $0.50 per hour differential will be paid.

Those employees who receive, at the signing of this agreement, a wage rate higher than the categories above shall be maintained at their current rate (plus across the board increases)

If the Employer wishes to pay an employee at a rate of pay above the then existing highest contractual rate for experienced employees, it shall be by mutual agreement only.

8. METHODS OF PAYMENT:

All methods of computing wages shall be reasonable and intelligible to the employee. An arbitrator in accordance with Article 27(B) herein shall be empowered to hear and determine any complaints with reference to the application of this Article provided proper grievance procedures have been followed.

A. In the event that the installation of new machinery results in the displacement of employees, the Employer shall make every reasonable effort to provide such displaced employees with employment in this plant provided that the terminated employee is qualified and in good standing.

B. In the event the Employer desires to establish a piece rate, bonus, or other incentive program, the parties will meet to discuss such programs, which shall be implemented upon the mutual agreement of the parties.

9. HOURS OF EMPLOYMENT:

A. INSIDE PRODUCTION EMPLOYEES:

a. The regular work week for all Inside Production employees shall be five regularly scheduled days Monday through Saturday.

b. All washers, washroom loaders, porters, distribution loaders and soil employees shall be guaranteed a minimum of forty (40) hours of work per week at their regular hourly rate provided they complete all scheduled days in a workweek. All other Inside Production employees shall be guaranteed a minimum of thirty-five (35) hours of work per week at their regular hourly rate provided they complete all scheduled days in a workweek. The provisions of this paragraph shall not apply during holiday weeks or in event of a breakdown of six or more hours resulting from causes beyond the control of the Employer, or if the employee fails to report for work for any reason whatsoever.

c. Work in excess of (40) hours per week or outside the regular schedule of hours shall constitute overtime and shall be compensated for at one and one-half times the regular rate. Employees must work their regularly scheduled daily hours to qualify for overtime. Holidays and Personal Days shall be counted as days worked, unless the holiday falls on a nonscheduled work day.

B. ENGINEERS, MECHANICS, MAINTENANCE EMPLOYEES AND PORTERS:

a. The regular workweek for all engineers, mechanics, maintenance employees and porters shall be five regularly scheduled days from Sunday through Saturday.

b. All engineers, mechanics, maintenance employees and porters shall be guaranteed a minimum of forty (40) hours of work per week at their regular hourly rate, provided they complete all scheduled days in a workweek. The provisions of this paragraph shall not apply during holiday weeks or in event of a breakdown of six or more hours resulting from causes beyond the control of the Employer, or if the employee fails to report for work for any reason whatsoever.

c. Time worked in excess of (40) hours per week or outside the regular schedule of hours shall constitute overtime and shall be compensated for at one and one-half times the regular rate. Employees must work their regularly scheduled daily hours to qualify for overtime. Holidays and Personal Days, shall be counted as days worked unless the holiday falls on a non-scheduled work day. Engineers and maintenance employees will be provided a work schedule.

d. Engineers mechanics, and maintenance employees when called in on their second day off, equivalent to a traditional Sunday, shall be paid double time at the regular rate for all hours worked with a guarantee of at least four (4) hours pay at double time.

C. DRIVERS AND HELPERS:

a. All drivers and helpers, except Hand Laundry Division:

i. The regular work week shall be Sunday through Saturday.

ii. All drivers shall be guaranteed a minimum of forty (40) hours of work per week at their regular hourly rate, provided they complete all scheduled days in a workweek. The provisions of this paragraph shall not apply during holiday weeks or in event of a breakdown of six or more hours resulting from causes beyond the control of the Employer, or if the employee fails to report for work for any reason whatsoever.

iii. Time worked in excess of a total of forty (40) hours a week, exclusive of a daily one half hour lunch, shall be compensated for at one and one half (1-1/2) times the regular rate of pay, such rate to be compensated on the basis of a 40 hour week. Drivers must take their lunch,

iv. The day's work shall include truck loading, unloading, and paperwork required by Employer.

v. No outside employee shall perform any duties in the inside of the Employer's place of business other than such clerical work as is necessary to check in and check out and loading and unloading. In the event Employer requires a driver to upgrade their license, Employer agrees to pay for such change.

vi. All paid Holidays and Personal days (excluding sick leave and other time off) shall be considered as time worked in computing overtime pay, unless the paid time off falls on a non-scheduled work day.

D. FIXED SCHEDULES:

a. FDR shall provide Drivers, Mechanics and Inside Production employees with a fixed schedule, except that the company may change such schedules for drivers to substitute for another employee who is on vacation, to adjust routes due to a gain or loss in business and/or customers, due to an act of God or holidays weeks. The company shall give employees one week notice in the change of schedule. All employees shall have the right to bid on the schedules based on seniority. Driver Routes typically include one Saturday or one Sunday.

b. The Employer shall post a schedule of hours for all employees set forth in this Paragraph 9(D).

c. In the event the Union does not consent to such change of schedule, it shall within seven days after such notification refer the matter to Arbitration in accordance with the Arbitration Article of this Agreement. FDR's change in scheduling shall stay in effect until the Arbitrator has rendered an award in connection with the matter so submitted by the Union. To ensure an expedited decision: 1) the dispute shall be heard by the arbitrator with the earliest availability among the panel designated in the Grievance and Arbitration Article; 2) the parties shall make themselves available for a hearing on weekday evenings, if necessary; 3) the arbitrator shall issue a bench decision; and 4) the arbitrator is authorized to award appropriate relief against a party who unreasonably delays the arbitration process.

E. ADDITIONAL SHIFTS:

a. Washroom and Soil. For shifts starting by any employee in the Washroom and Soil Departments after 1:00 p.m., those employees will receive a 5 percent increase above the straight time rate; for shifts starting after 9:00 p.m., the employees will receive a 10 percent increase above the straight time rate.

b. Other Inside Production (excluding Washroom, Soil and Distribution Loaders). For shifts starting by any employee in Inside Production, other than Washroom and Soil, after 3:00 p.m., those employees will receive a 5 percent increase above the straight time rate; for shifts starting after 11:00 p.m., such employees will receive a 10 percent increase above the straight time rate.

c. A shift may include one (1) or more employees.

F. In the event of a reduction of work, employees with one or more years of seniority will be provided the opportunity to complete their scheduled workweek.

G. TIME CARDS:

a. All employees, except commission route sale employees, shall punch time in and out on a time clock furnished by the Employer. All pay envelopes or pay checks of such employees must contain an itemized statement of all hours worked and rates of pay.

b. At the written request of the Union, the Employer shall make available to the Union, time cards for copying/inspection, and

c. Paychecks shall indicate vacation pay, sick days and holiday pay.

H. LUNCH PERIOD:

All employees shall be entitled to an unpaid daily lunch period. All employees must take their lunch period.

I. STAGGERED WORK WEEK:

Anything herein above to the contrary notwithstanding, application may be made to the Union for leave to operate a work week of five working days within six days, for any or all categories of employees, when necessitated by the nature of the business. In the event the Union refuses to consent to the same, the matter shall be submitted to arbitration as herein provided. In the event such five within six days schedule is consented to, or allowed by the Arbitrator, current employees who would otherwise have received overtime pay for Saturday work, will continue to receive the same. Such overtime shall not apply to employees hired after December 1, 1975, or current employees who would not otherwise receive the same.

Anything herein above to the contrary notwithstanding, employees hired on and after November 28, 1990, (as well as those hired between October 1, 1990 and November 28, 1990 who in that period worked exclusively under the conditions set for the in this subparagraph) engaged in hotel, motel or other Hospitality NOG work, may be employed on a work week of five consecutive days within any consecutive seven days. Such five days (regardless of the day of the week) shall

be paid at regular straight time rates, the first day after the fifth scheduled day shall be treated for premium pay purposes as if it were a Saturday in a normal Monday to Friday schedule and the second day after the fifth scheduled day shall be treated for premium pay purposes as if it were Sunday in a normal Monday to Friday schedule. Except as expressly set forth in this paragraph, nothing herein contained shall be deemed to deprive any employee working on a five day within seven day schedule of the holiday or other fringe benefit rights such employee would otherwise earn under this contract. An employee working on such schedule shall retain whatever rights such employee may have to bid off the schedule for another job opening if the Employer has an acceptable replacement for such bidding employee.

Anything hereinabove to the contrary notwithstanding, employees in any facility which is engaged primarily in institutional health care work (hospitals, nursing homes, etc.), may be employed on a work week of either (i) five (5) days within any consecutive seven (7) days, or (ii) four (4) days within any consecutive seven (7) days. Such five (5) days (regardless of the day of the week) shall be paid at regular straight time rates, the first (1st) day after the fifth (5^{th}) scheduled day shall be treated for premium pay purposes as if it were a Saturday in a normal Monday to Friday schedule and the second (2^{nd}) day after the fifth (5^{th}) scheduled day shall be treated for premium pay purposes as if it were Sunday in a normal Monday to Friday schedule. Such four (4) days (regardless of the day of the week) shall be paid at regular straight time rates, the first (1st) day after the fourth (4^{th}) scheduled day shall be treated for premium pay purposes as if it were a Saturday in a normal Monday to Friday schedule and the second (2^{nd}) and third (3^{rd}) days after the fourth (4^{th}) scheduled day shall be treated for premium pay purposes as if were Sunday in a normal Monday to Friday schedule. Except as expressly set forth in this sub-paragraph, nothing herein contained shall be deemed to deprive any employee working on a four (4) or five (5) day within seven (7) day schedule, of the holiday or other fringe benefit rights such employee would otherwise earn under this Agreement.

J. SHOP CHAIRPERSON GUARANTEE:

One inside shop chairperson shall be guaranteed a minimum of 40 hours of work at his or her regular rate, in any week in which the inside production of the plant operates at least 40 hours, provided such shop chairperson is available for such work. Shop chairperson shall be permitted one hours per week to deal with employee issues.

K. REST PERIODS AND WAITING TIME:

a. All Inside Production employees, shall receive two rest periods with pay of ten (10) minutes each per day. Said rest period shall be provided at the time which is mutually agreed upon between the Employer and the Union.

Overtime breaks shall be scheduled such that no employee will be required to work more than three (3) hours without a paid ten minute break. When overtime is required, it shall be offered first to the employees who regularly perform such work, then to other employees on a voluntary basis in seniority order. In the event enough employees have not voluntarily filled the open positions, such overtime shall be filled in a mandatory reverse seniority order.

Rest periods excluding the lunch period shall be considered as time worked for the purpose of calculating overtime. Time worked at the request of the Employer during rest periods shall be paid for at one and one-half the regular rate.

b. Employees shall be compensated at regular rate of pay for all waiting time resulting from breakdowns. In the event of a major breakdown (expected to exceed four hours), FDR may request the employees to leave and to return to the plant at a new scheduled time. FDR agrees to pay overtime rate for work performed after the end of the employees' scheduled work period. When requested, Employees must return to work until their scheduled shift end time or face disciplinary action.

L. ILLNESS, SICK LEAVE AND LEAVE OF ABSENCE:

a. If an employee is going to be absent or late for work without prior approval, including due to illness, injury or disability, the employee must notify the plant Human Resources department by telephone (973.825.7823) no later than thirty (30) minutes before his/her scheduled time, or, in the event of an emergency, as soon as practicable and any failure to do so shall result in the absence being deemed an unexcused absence, subject to appropriate discipline.

b. The Employer requires documentation if an employee is absent for three (3) or more consecutive days.

c. Any employee not able to perform his/her regular position due to a Workers Compensation disability or other injury, shall perform any available light duty bargaining unit work for the Employer at the rate paid by the Employer for such work, provided the employee is certified by an appropriate physician to be capable of performing such work, provided such work is available at the time and provided that the employee is competent to perform such work. Light Duty work is defined as non-strenuous for such employee's condition. The Employer has no obligation to create a position for any employee.

d. The Employer shall grant sick leave as follows: After one (1) year of employment from the date of hire, each employee shall be entitled to six days of sick leave with pay each year. Unused sick leave shall be paid to

the employee at the end of each year. Sick leave may be used only for an employee's own illness or injury. Sick pay shall be calculated using an employee's regular hourly rate of pay and will not be paid out in the event of termination or separation from the Company.

e. In addition to sick leave, an employee may be eligible for leave under the Family Medical Leave Act ("FMLA"), which provides employees with twelve (12) weeks of unpaid leave in certain circumstances. To the extent an employee takes a FMLA leave due to a serious medical condition of a family member, Employer agrees that such leave includes employee's family members regardless of whether the family member lives in the United States or in another country. FDR agrees that the decision to use vacation, personal and/or sick days concurrent with FMLA leave will be at the employee's discretion.

f. An employee desiring a leave of absence ("LOA") shall make a prior request of, and obtain written permission from, the Employer. The decision to grant the LOA is in the sole discretion of the Employer. Should the Employer grant the request, the Employer may require the employee to use any vacation or other leave as part of the LOA. The Employer shall determine the length of time of such a LOA. If an employee fails to return from a LOA on time, the Employer shall not be required to retain the employee. To the extent the Employer gives permission for a LOA, the employee shall retain their seniority as of the last date of their scheduled leave of absence.

10. VACATIONS:

The Employer shall grant vacations as follows:

A. Employees with at least one year of continuous service shall be entitled to one week of vacation with pay. Employees with three years of continuous service shall be entitled to two weeks of vacation with pay. Employees with ten years of continuous service shall be entitled to three weeks of vacation with pay. Employees with twenty years of continuous service shall be entitled to four weeks of vacation with pay. All employees with more than one week vacation, shall give up one week vacation per year for the first two years of this contract. Employees who have given up a week as described above, may take one additional week of unpaid vacation as long as they have requested such vacation as required.

B. Vacation time must be used within the year it is earned, except that employees employed for less than three years may use vacation time within two years from the date it is earned. Vacation must be taken as paid time away from work. In the event the employee has formerly applied for vacation pursuant to Paragraph 10(D)(b), and such request has been denied resulting in the inability of the employee to utilize their vacation time, the employer shall be obligated to pay

such unused vacation time. Unused vacation time will not be paid if no request for time off has been made in accordance with Paragraph 10(D)(b) and will not be carried over.

C. Vacation pay for all employees shall be based on forty hours at that employee's prevailing wage rate. Employees who choose to work in lieu of taking vacations and receive their vacation pay shall do so only with the written permission of the Employer.

D. Vacation Requests:

a. Except as otherwise arranged by mutual agreement of the Parties hereto providing for year round vacation, vacations for all employees shall be granted between January 1 and December 31.

b. Employees entitled to vacation time off shall make every effort to sign a sheet by January 31 designating the dates they desire time off. The Employer shall make every reasonable effort to meet employee's request. Where that is impossible, employees will receive vacation time off by seniority. If an employee does not sign up for vacation by January 31, the employee may request vacation by providing at least two weeks written notice and the request will be accommodated when possible on a first come, first serve basis subject to the availability of vacation and the Employers production needs.

c. The Employer shall allow five employees per year to take their vacation during a holiday week, provided that no more than three employees may take vacation in any one holiday week. Requests must be made by January 31, and the Company will do its best to accommodate those requests. Such requests will be granted based on seniority and, to the extent there is further conflict, based on a first come basis. Concurrent weeks of vacation during a holiday will be approved on a rotating basis.

d. Upon termination, accrued, unused vacation days will be paid to the employee upon return of all company property. If the Employer advanced vacation days to the employee and the employee leaves prior to accruing those days, the Employer will deduct the used, unearned vacation days from the employee's final paycheck.

11. HOLIDAYS/PERSONAL DAYS:

The employer shall grant the following holidays with pay as follows:

A. All employees are to receive the following holidays:

a. New Year's Day, July 4th, Thanksgiving Day and Christmas Day. These holidays are to be compensated for regardless of the day of the week on

which they fall. In addition, employees will be given their birthday as a holiday.

b. An employee working on his birthday shall be paid at the premium rate for working on that day, except that the employee shall be paid straight time if such birthday falls during any other holiday week or if the birthday falls outside the employee's regularly scheduled workweek.

B. Method of Payment

a. Holiday pay for each hourly employee shall be computed at his regular time rate of pay multiplied by ten hours for employees on a four (4) day, ten (10) hour schedule, and by eight hours for employees on a five (5) day, eight (8) hour schedule.

b. Holiday Pay for Working the Holiday: Employees who work on a holiday shall be compensated at one and one-half times their regular hourly rate for hours worked plus Holiday pay.

C. Restrictions on Use

a. The Employee's right to holiday pay shall be conditioned upon regular attendance during the week of such holiday. However, employee's right to holiday pay shall not be affected by absence from work for reasonable cause during the holiday week. The Employer may request documentation where the Employer has reason to expect abuse.

b. A new employee shall not be entitled to holiday pay until the employee has completed a forty-five (45) day trial period.

D. No work shall be performed on New Years Day, July 4th, Thanksgiving or Christmas Day without the consent of the Union unless there is a production emergency.

E. A holiday shall be considered as time worked computing overtime pay, unless the holiday falls or is celebrated on a non-scheduled workday.

F. Personal Days.

a. Employees will be entitled to four personal days, which may be taken throughout the year with two weeks prior written approval of management. Such approval shall not be unreasonably denied. If the Employer withholds approval of a requested personal day and the employee does not utilize the day by the end of the year, the Employer shall pay the employee for the unused personal day(s). Unused personal days will not be paid if no previous request for time off was made in accordance with this Paragraph and such days cannot be carried over.

12. BULLETIN BOARDS:

The employer shall provide a bulletin board in the cafeteria for the posting of all union notices, announcements and information.

13. SPANISH TRANSLATION OF CONTRACT:

The Union will provide the Spanish translation of the current contract. The Company will be responsible for updating and revising that translation. The English version of the contract will be the legal document. The cost of printing and translation will be shared equally between the Union and Company, subject to a maximum charge to the Employer of $.50/employee for printing and $500 for translation.

14. DELETED:

15. ENGLISH AS A SECOND LANGUAGE:

The parties recognize that many recent immigrant workers are employed by the Employer, and are a vital element to the success of the facility. While English is the language of the workplace, the Employer recognized the right of employee to use the language of their own choice amongst themselves.

The Employer is committed to a program to improve its ability to communicate with employees who do not speak English. To that end the Employer agrees that it will cooperate with the Union in the development and administration of an English speaking program. The program will incorporate a qualified instructor and materials that will help the employees to citizenship requirements as well as material to help them with work-related terms and conditions. It will be conducted on the employer's premises providing there is adequate participation.

16. INSURANCE:

A. Except as provided for in this Article, the Employer agrees to contribute monthly to the Laundry, Dry-Cleaning and Allied Industries Health Fund, or such other fund as the Union may designate in writing, to proved coverage for Employees only. Contributions shall be made according to Fund policies governing contributions by employers participating in the NY Laundry Master CBA as provided by the terms of the Supplemental Agreement attached hereto and Marked "Exhibit A" and incorporated herin as though fully and at length set forth. The contribution rate to the Laundry, Dry Cleaning Workers and Allied Industries Health Fund, Workers United (the "Health Fund") shall be as follows, effective:

Current	1/1/14	1/01/15	1/01/16
$325	$400	$427	$452

In the event of a waiver or deferral of a Complaint Plan, resulting in a lower rate for employers in the NY Laundry Master CBA, FDR shall also be entitled to pay at that lower rate for the same time period.

B. The Employer agrees to contribute sums of money equal to a stated percentage of its payroll to the Laundry,Dry-Cleaning Workers & Allied Industries Pension Fund (Retirement) all as provided by the terms of the Supplemental Agreement attached hereto and marked "Exhibit B" and incorporated herein as though fully and at length set forth.

a. The contribution rate to the Laundry, Dry Cleaning Workers and Allied Industries Pension Fund, Workers United (the "Pension Fund") shall be as follows, effective:

2/2/13
2.35%

C. The contribution rate to the Laundry, Dry Cleaning Workers Education and Legal Services Fund, Workers United (the "Education/Legal Fund") effective 11/27/09, shall be .65% of payroll.

The said aggregate of one half of one percent provided in the Pension fund and the Education/Legal Fund put into effect on February 2, 2013 may be allocated between the said two Funds in all future years, as the Trustees of the said two Funds determine.

D. Upon request of the Union, the Employer agrees to furnish the Union with a list of employees in the bargaining unit, including each employee's name, social security number, department, title, home address, phone number, date of hire and rate of pay (to the extent such information is both available and maintained in a computer readable form), the same to be furnished in a computer readable form. This request cannot be made more than quarterly unless to investigate or settle a grievance.

E. To the extent any audit is performed by the Parties or any third-party in connection with the Health Fund, Pension Fund, Education/Legal Fund, such audit will be at the sole expense of the Party performing the audit.

F. In the event the U.S. government passes or offers legislation regarding a public version of healthcare, and FDR is mandated to contribute to such healthcare program, the parties agree to amend the Agreement accordingly. Employees shall not be entitled to double-dipping. Therefore, if the aforementioned legislation provides a given benefit to employees at no cost to employees and at FDR's expense, FDR shall not be required to make Health or Social Insurance Fund

contributions for that same benefit. In the event that after January 2014 the public version of healthcare provides and equal or better coverage opportunity at a lesser cost, the union will permit Employer to reopen this article for discussion.

17. TRANSFER OF WORKERS WITHIN THE PLANT:

The Employer shall have the right to reasonably shift employees within the plant. If such shift is for the convenience and at the request of the Employer, such shift will not result in a decrease in pay and provided further that the employee so shifted will be paid no less than the established rate for the work from which they are shifted or for the work to which shifted, whichever is greater.

18. MOVED TO PARA 39.

19. MECHANICS, ENGINEERS AND MAINTENANCE:

A. The Employer shall not require an engineer to do anything which would be grounds for the revocation of the engineer's license.

B. The Employer shall not make any charges for tools required by maintenance employees in the performance of their duties. Property of the company shall not be removed from the company premises for any reason.

C. Only mechanics, engineers and maintenance employees shall operate any part of a power plant or the machinery or equipment thereof

20. SPECIAL LEAVE FOR ORGANIZING PURPOSES:

A. Employees covered by this contract shall be eligible for a Special Leave for union organizing purposes. Request for such leave shall be given in writing to management fifteen (15) days before the leave is scheduled to begin. No more than two employees may be on such Special Leave at one time. No such Special Leave may exceed ninety (90) days unless mutually agreed. Any employee on such Special Leave must be Special Leave, the Employer will continue the seniority of the employee or employees on leave and the accrual of benefits based on seniority. The Employer shall have no obligation to pay wages or fringe benefit contributions during such leave and shall receive credit for any sick leave days paid by the Union to the employee during the Special Leave (the same to be applied against the Employees required sick leave payments to such employee accruing during the said Special Leave).

21. FEDERAL, STATE, MUNICIPAL LAWS, ORDINANCES, RULES AND REGULATIONS:

Employer agrees to abide by and comply with all federal, state and municipal laws and ordinances, rules and regulations covering the health and safety for all its employees in connection with the safe running of the operation and of its fleet of vehicles.

22. EMPLOYER NOT TO DO PRODUCTIVE WORK:

No Employer or person having any proprietary interest in the Employer such as an officer, director or partner, shall perform productive or delivery work.

23. MOVING:

In the event that the Employer moves its establishment to another location in the New York, New Jersey or Connecticut areas, this Agreement shall continue in full force and effect with reference to such Employer. Employment will be offered to FDR employees upon such a move.

24. MILITARY SERVICE:

In the event that an employee has enlisted or hereafter enlists, or has been or is conscripted into service as a member of the National Guard or Army, Navy or Marine Reserve, the employee shall, upon discharge from service, be reinstated to the employee's former position with the Employer with all rights and privileges enjoyed by the employee at the time of entrance into the service and such further rights and privileges as are in effect under the Agreement between the Union and the employer in force at the time of reinstatement.

25. SANITARY CONDITIONS:

The Employer shall maintain sanitary and healthful restrooms and conditions in the plant and shall comply with Federal, State and Municipal Laws, ordinances, rules and regulations pertaining thereto. In particular the Employer shall comply with all the rules and regulations promulgated pursuant to the Occupational Health and Safety Act. The Manager of the Union shall have the right to designate a representative to make inspections of the Employers plant for the purpose of ascertaining whether the Employer is in compliance with such laws, ordinances, rules and regulations.

26. DISCHARGES:

A. The Employer shall not discipline or discharge employees except for just cause. For purposes of this Article, "just cause" shall mean, but is not limited to:

   a. Employee's serious misconduct in connection with the business, operations or affairs of the Employer;

   b. Employee's repeated or continued unexcused absence from work during normal business hours for reasons other than disability. For purposes of this Paragraph "repeated or continued unexcused absence" means the employee has received three written warnings regarding the lateness or absence and within six months of the last warning receives a fourth written warning. Employer may suspend the employee without pay following the third written notice;

c. Employee's conviction of a felony or a determination by the Employer that employee is engaging in or has engaged in fraud, misappropriation, dishonesty in financial dealings or embezzlement in connection with the business, operations or affairs of the Employer (including any business done with any clients or vendors);

d. An employee found to be abusing alcohol or unlawful substances at work, or an employee's alcohol or substance abuse that interferes with the performance by employee of employee's duties or obligations in connection with the business, operations or affairs of the Employer; or

e. Employee's violation of any of the reasonable written policies, rules, regulations, standards or practices of the Employer (including but not limited to discrimination or harassment). Each employee shall be given a copy of the employee handbook in Spanish or English.

B. Any employee who attends a disciplinary meeting or investigation that might lead to disciplinary actions taken, shall have the right to have a Union representative (shop steward) accompany him or her.

27. GRIEVANCE PROCEDURE & ARBITRATION:

Procedures herein shall be the exclusive means for the determination of all disputes, complaints, controversies, claims or grievances whatsoever concerning the meaning, application, performance, or operation of any provision of this Agreement.

A. Grievance Procedure

a. Should a grievance arise between the Employer, Union, or employee, such grievance shall be taken up for settlement under the following procedures:

i. Step One: The grievance shall be verbally presented by the employee involved and the Steward, where requested by the employee, to the employee's Supervisor within ten (10) working days of when the employee first had knowledge of the facts which gave rise to the grievance.

ii. Step Two: If no satisfactory settlement is reached in Step One, the grievance shall be reduced to writing by the employee, Steward and/or Business Agent and given to the Employer for review within fifteen (15) working days of when the employee first had knowledge of the facts which gave rise to the grievance. The Employer shall provide a written response to the grievance within ten (10) working days from receipt of the written grievance in accordance with the notice provisions herein.

iii. Step Three: If the Union is not satisfied with the written response, the Union shall notify the General Manager that it is not satisfied with the Employer's written response to the grievance within ten (10) working days of the receipt of the Employer's response. A meeting shall be held, within ten (10) working days of the receipt of the Union's submission to the General Manager, between the employee, Steward, General Manager, and any other necessary party concerning the grievance. Within ten (10) working days after the meeting the Employer shall provide a written response to the grievance.

iv. Step Four: Either the Employer or the Union may - submit to arbitration any grievance that is not settled or adjusted pursuant to the above procedure within ten (10) working days from the Employer's written response as set forth in Step Three. It is the intention of this provision, that failure to comply therewith shall constitute a waiver of the right of the Party so failing to comply, to seek and require arbitration.

b. Should the Employer have a grievance against the Union or an employee, the above four steps shall be followed, except that the parties shall be deemed reversed for the purposes of step one, two and three.

c. Subject to the provisions of Article 51, Stewards shall be paid by the Employer for time reasonably spent during their regular scheduled working hours in investigating, settling, and presenting grievances under this Article. Employees shall be paid for time spent in any meetings with representatives of the Employer when requested by the Employer.

B. Arbitration.

a. Should the negotiations between the Employer and the Union pursuant to Article 27 (A) fail to bring about a settlement, the Parties shall jointly request a list of seven (7) names from the Federal Mediation and Conciliation Service ("FMCS") for the selection of a single arbitrator, including resumes, conflict of interest disclosures and any other information the Parties may request. The Parties shall rank the arbitrators (one being the most desirable) and submit the list directly to the FMCS without copying the other Party. The FMCS will select the top ranked arbitrator appearing on both Parties' lists. The contact information for the FMCS is FMCS Office of Arbitration, 2100 K Street, NW, Washington, D.C. 20427, (p): (202) 606-5111. The requested arbitrators must have their first business address within 125 miles of Paterson, New Jersey. The dispute will be arbitrated in Paterson, New Jersey, or at some other location mutually agreed to by the Parties. This Article, and its enforcement, shall be governed by the laws of the State of New York.

b. The award rendered by the arbitrator shall be conclusive and binding upon the Parties hereto, and their heirs, executors, administrators, assigns or successors in interest and upon any employer and employee covered by this Agreement. Judgment upon the award may be entered, and enforcement may be sought in, any court of competent jurisdiction. Any award pursuant to said arbitration shall be accompanied by a written opinion of the arbitrator setting forth the reason for the award. A court shall vacate, modify or correct any award: (A) where the arbitrator's conclusions of law are erroneous; (B) in accordance with New York law governing the arbitration; (C) where the arbitrators knew of a governing legal principle yet refused to apply it or ignored it altogether; or (D) where the arbitrator's ruling is contrary to the language of the Agreement. Except as provided by law, each Party shall pay its own expenses of arbitration. The expenses of the arbitrator (including compensation) shall be split equally by the Parties. The Arbitrator is empowered to include in the award mandatory and injunctive relief and assess damages, however such damages must be reasonable and cannot be punitive.

c. Notice to any Party must be served in accordance with the Notice provisions in the Agreement. Notice to other interested parties may be served by ordinary mail directed to the last known address of the interested parties or their attorneys. The service of any other notices that may be required under the Civil Practice Law and Rules is hereby expressly waived.

d. The Parties, in agreement with the Arbitrator, will agree on an arbitration schedule and hearing date in connection with the dispute.

e. In the event that a Party fails to appear before the Arbitrator after the notice aforesaid, the Arbitrator is authorized to proceed with the hearing and may decide the matter in dispute upon the testimony adduced by the Party appearing at such hearing. The Arbitrator shall decide any dispute submitted to the Arbitrator within ten (10) days after submission, except in discharge cases, where the decision shall be rendered within one week. The failure of the Arbitrator to render a decision or award within the aforesaid prescribed time, shall not affect the validity of said award. All decisions of the Arbitrator shall be effective as of the date the decision is rendered except as otherwise provided in this Agreement.

f. The procedure established in this Agreement for the adjudication of disputes shall be the exclusive means for determination of such disputes, including strikes, stoppages, lockouts, and any and all claims, demands and actions arising there from, except as expressly provided otherwise in this Agreement. No proceeding or action in a court or law or equity or administrative tribunal shall be initiated other than to compel arbitration and to enforce or vacate an award.

g. This Article shall constitute a complete defense and ground for a stay of any action or proceeding instituted contrary thereto.

h. In the event a Party fails to abide by an award of the Arbitrator, the prevailing Party may take such other action as it deems appropriate notwithstanding the provisions of this Article or any other Article.

28. REAL PARTY IN INTEREST:

It is mutually agreed that the Union is the real party in interest under the terms of this agreement with respect to the proper enforcement of any of its provisions, and no individual member of the Union may take any action with reference to any subject matter covered by this Agreement without the consent of the Union. No member of the Union shall have the right to institute any legal proceeding in any court or before any administrative tribunal against an Employer, on account of any matter directly or indirectly arising out of this Agreement or for the alleged breath or threatened breach thereof, without the written consent of the Union. No Employer, who is a member of an Association signatory to this Agreement, shall have the right to institute any legal proceeding in any court, which might otherwise be maintained under the provisions of this Agreement against the Union or any member thereof on account of any matter directly arising under this Agreement (or for the alleged breach or threatened breach thereof without the written consent of the Association of which the Employer is a member. Anything to the contrary notwithstanding, nothing in this Article shall be construed as a modification of the provisions of this Agreement governing the submission of complaints, grievance, and disputes to arbitration and the determination thereof).

29. PROHIBITION OF LAYOFFS BECAUSE OF TRANSFER OF WORK:

No Employer may layoff an employee because of a transfer of work or the threatened transfer of work from its present plant to any other plant without the consent of the Union, unless it is to the Front Royal, Virginia plant when it is under contract to the Mid-Atlantic Regional Joint Board of Workers United, or its successor, or another plant covered by a contract between FDR and another Workers United shop. In the event that the Union refuses to consent to such a layoff; the Employer may submit the matter to Arbitration for determination pursuant to the arbitration provisions contained in Article 27. This Article shall not limit the right of the Employer at any time to lay off employees under the seniority plan adopted in Article 31 hereof, or to close the plant or any department thereof when, in the opinion of the Employer, the condition of the business makes it advisable so to do.

30. STRIKES, LOCKOUTS AND STOPPAGES:

A. The Union agrees that during the period of this Agreement the union, its officers, Representatives, members, and employees covered by this Agreement shall not take part in any strike, including sympathy strike, slowdown or stoppage of work, boycott, picketing, or any other interruption of or interference with the work and business of the Employer. It is the intent and purpose of this Article to insure the

Employer of industrial peace and freedom from interference with the interruption of its business because of any labor dispute during the full term of this Agreement, except that it will not be a violation of this Agreement for an employee to refuse to perform struck work where the Employer is acting as an ally of a different employer where the Union is engaged in a primary strike. The participation by any employee in any conduct prohibited by this Article or the failure or refusal on the part of any employee to comply with any provision of this Article shall be cause for whatever disciplinary action, including suspension or discharge, is deemed necessary by the Employer.

B. In consideration of this No-Strike covenant and pledge by the Union and employees, the Employer agrees that it shall not lockout employees during the period of this Agreement.

C. Neither the violation of any provision of this Agreement nor the commission of any act constituting an unfair labor practice or otherwise made unlawful by any federal, state or local law shall excuse employees, the Union or the Employer from their obligations under the provisions of this Article.

D. For any unauthorized work stoppage there shall be no liability on the Union, its officers or agents for violations of the no strike provisions.

E. To the extent permitted by law, it shall not be a violation of this Agreement and shall not be cause for discharge of any employee to refuse to cross a picket line of the Laundry, Dry Cleaning and Allied Workers Joint Board, Workers United, or to cross a picket line of any other union if such picket line has been recognized by the Manager of the Union.

31. LAYOFFS AND SENIORITY:

A. Except as set forth in a separate provision, seniority shall be defined as length of continuous service in the bargaining unit covered by this Agreement.

B. Seniority shall govern with respect to layoff and recall, vacation and overtime subject to the Employers establishment of designated work schedules. Shop stewards and chairpersons shall have super-seniority in their departments.

C. In the event that two or more employees are hired on the same day their seniority shall be decided by a lottery of said employees. Employees shall be given new hire dates with FDR, however with regard to the ORDER OF EMPLOYEE LAYOFFS AND OVERTIME ONLY, Employer shall recognize the Employees original date of hire with other operators of the laundry.

D. Seniority shall be deemed broken for the following reasons:

a. A voluntary quit;

b. A discharge for cause,

c. Failure to return to work in accordance with the terms of an approved leave of absence;

d. A layoff for a period of 12 months

e. Failure to return to work within 5 days of notice sent to the last address on file by registered mail;

f. Illness or injury absence equal to the employee's length of service when the leave began or 1 year, whichever is less;

g. Two consecutive work days no call/no show.

E. In the event of a reduction in work force, the least senior person in the affected department shall be the first person to be laid off The displaced employee may bump the least senior employee in the bargaining unit in an equal or lower rated classification provided they have the seniority and are qualified to perform the work successfully with minimal training. The displaced employee without seniority to bump shall be laid off

F. Employees shall be recalled to their former position in inverse order as business needs dictate.

32. PROMOTIONS:

Any employee who has passed probation can sign up to be considered for any equal or higher paying job in the bargaining unit. The Employer shall offer any available openings to the senior bidder who has signed up as long as they are qualified or qualified to learn the job. If there is a job which must be filled immediately or where no one is qualified or qualified to learn the job, the Employer may hire employees outside the bargaining unit who possess the need skills.

33. SAFETY AND HEALTH:

A. General: The Employer shall make reasonable provisions to assure the safety and health of its employees during their hours of work. The Manager of the Union shall have the right to designate a representative to make inspections of the Employer's plant and trucks for the purpose of ascertaining whether the Employer is in compliance with laws, ordinances, rules and regulations concerning health and safety. The Union agrees to cooperate with the Employer to ensure that all supervisors and associates comply with such reasonable rules, regulations and practices as may be necessary to provide safe, sanitary, and healthful working conditions.

Both the Union and the Employer recognize that there are specific obligations under Federal, State and local standards or guidelines including those addressing hazard communications, lockout/tagout, and blood borne pathogens. Employees shall be provided with applicable safety and health information.

B. Protective Equipment: The Employer shall make available appropriate personal protective equipment at no cost to the employee except in situations involving intentional damage or negligence. Appropriate respiratory protection will be made available to all continuous roller towel employees.

C. Protection from Heat Stress: Employer shall provide an adequate number of clean drinking fountains or bottles with cool water and clean cups to allow easy access by employees for frequent drinking. When the exterior temperature exceeds 85 degrees, the Employer shall provide a drink supplement in adequate quantities to last all day. The Employer shall take all reasonable measures to review reducing heat exposure including exhaust ventilation, fans, air cooling, coverage of steam and other hot equipment, and will consider any recommendations provided by the Safety and Health Committee including one additional break.

D. Ergonomics Program: The Parties agree to abide by the letter agreement regarding bin weight attached hereto as Attachment 1 (the "Letter Agreement"). Except otherwise provided in the Letter Agreement, bins filled at the Employer's plant shall not exceed 600 pounds of product, and the Employer shall request of its customers that they do not overload the bins, but that the Employer shall incur no liability or further responsibility if its customers do not honor such request. Employer agrees to make every effort to keep the wheels of bins free and clear of any obstructions.

E. Sanitation: Restrooms shall include appropriate lighting, mirrors, floor mats and will be stocked with all necessities. The restrooms will be kept free of clutter and maintained in a sanitary condition. The rest rooms will be open during working hours, lunch and rest periods, unless temporarily closing is necessary for repair, cleaning, or remodeling. Handwashing facilities will be made accessible to employees.

F. Protection from Bloodborne Pathogens:

a. Protective Equipment:For employees with potential occupational exposure, such as skin contact, to blood or other potentially infectious materials, the Employer shall provide, appropriate personal protective equipment. This shall include (but is not limited to) gloves, gowns, coats, face, shields or masks and eye protection. Personal protective equipment will be considered "appropriate" only if it does not permit blood or other potentially infectious materials to pass through to or reach the employee's clothes, skin, eyes, or mouth, under normal conditions of use. The Employer shall repair or replace personal protective equipment as needed to maintain its effectiveness, at no cost to the employee, except in cases of intentional damage or negligence. Disposable (single use) gloves such as surgical or examination gloves, shall be replaced as soon as practical when contaminated or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised.

b. Vaccinations: The company shall offer the Hepatitis B vaccination series to all employees with potential occupational exposure to blood within ten (10) working days of initial assignment, unless the employee has previously received the complete Hepatitis B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

G. On-the-Job Injury: All injuries no matter how minor must be reported by the employee to his/her immediate supervisor, immediately upon occurrence.

H. Joint Safety and Health Committee: A Joint Safety and Health Committee ("Committee") will be established by the Employer and the Union, composed of three (3) members of the bargaining unit selected by the Union and up to three (3) members of management selected by the Employer. The Committee shall be organized to provide assistance in identifying and eliminating potential safety hazards throughout the facility. The General Manager or his/her designee will coordinate the meetings of the Committee; set agenda with input from members; assist with resources and technical assistance; and closely monitor all documentation including meeting minutes, activities and committee recommendations to ensure appropriateness, effective resolution, and compliance with applicable laws, regulations, code provisions, policies and/or procedures. This Committee shall meet at least once a month and will make a plant safety tour once every two months. Additionally, members shall become familiar with production processes and working conditions and will make recommendations to management to improve safety and health in the workplace. The Employer will consider all the recommendations from the Committee in good faith and respond to each recommendation, including deadlines for fixing problems, where appropriate.

I. Safety and Health Related Training: The Employer shall provide job safety and health related training as required by Federal, State, and Local regulations. Such training shall take place at intervals that comply with the applicable regulation or standard. Employees must comply with all training required by the Employer that is not unlawful.

J. Protective Equipment. It shall be the obligation of all employees to wear and/or utilize appropriate protective equipment provided that there is no bona fide medical reason that the employee can not wear or utilize such equipment. If no equipment exists within the bounds of the law to protect the employee, the employee will not be qualified to perform the job.

K. Elimination of Fire Door Hazards: All fire exit doors shall remain unlocked from the inside at all times. All fire exit doors shall be equipped with a panic bar for opening. No other locks shall be allowed at any time on fire exit doors. The Employer shall hold a fire drill at least once per contract year.

L. The Employer shall communicate with it's customers requesting that the said customers do not dispose of needles, knives, forks and other sharp instruments in the linens returned to the Employer, but the Employer shall incur no liability or further responsibility if its customers do not honor such request.

34. CREDIT UNION:

The Employer shall make all authorized payroll deductions for employees who join a Credit Union to be designated by the Union.

35. ADDITIONAL INSURANCE COVERAGE:

The Employer shall make all authorized payroll deductions for employees who choose to buy additional health insurance coverage and life insurance coverage and remit said monies to the appropriate Amalgamated Life Insurance Fund.

36. BEREAVEMENT PAY:

All employees shall, after one year of employment, receive up to three days pay for actual wages lost up to the day of the funeral in the event of the death of a mother, father, spouse, child, brother, sister, mother-in-law or father-in-law. Upon request from the employer, an employee may be required to provide proof of death. A day's pay shall be defined an eight hour for an (8) eight hour, (5) five day employee and (10) ten hours for a four-day ten (10) hour employee.

37. JURY DUTY:

All employees serving on a jury shall receive the difference between their regular pay and the amount received from the court. Proof of jury duty and court payments may be required in order to receive this benefit. This shall be limited to two weeks in any one year.

38. MERGER, CONSOLIDATION, SALE OR CLOSING:

A. In the event of the merger, consolidation, sale in whole or in part, or closing of the Employer's business, the Employer, its successor or purchaser, shall be jointly and severally responsible for any monies or benefits then due the employees. The successor or purchaser shall be bound by the terms, covenants and conditions of this Agreement.

B. If an employee is laid off as a result of a merger, consolidation, sale, in whole or in part, of the closing of a plant, the employee shall be entitled to severance pay computed as follows:

a. Under (5) years of continuous employment, no severance pay.

b. Thereafter, one (1) day for each year of continuous employment (excluding the first five (5) years thereof), but in no event to exceed twenty (20) days.

c. For the purpose of severance pay only, there shall be no portability of continuous employment after payment has been received by the employee.

C. The provisions of this Article shall not be construed to apply to an employee who shall be continued to be employed by the Successor Employer, without loss of seniority, for at least six (6) months after the completion of any merger, consolidation or sale.

D. Payment of severance is conditional upon the employee signing a severance and release agreement.

39. RULES AND REGULATIONS:

The Employer shall have the right to make reasonable rules and regulations for the conduct of the business, providing that such rules and regulations are not inconsistent with any of the provisions of the Agreement. Employees are expected to abide by the Employer's internal policies and procedures provided they are reasonable and not inconsistent with the provisions set forth herein. If an employee is required to pay/reimburse Parking Tickets, such employee shall be required to pay/reimburse the net amount of such ticket.

40. PARTIES BOUND; AUTHORITY

This Agreement shall be binding upon the Parties hereto, their heirs, successors, administrators, assigns and purchases of all or part of the interest of the Employer herein, except as provided for in Article 38. It shall likewise remain binding upon the Employer, his heirs, successors, administrators and assigns in the event that he moves, transfers, sells or combines with any other laundry, except as provided for in Article 38.

The Parties represent and warrant, confirm and agree that each Party to this Agreement has full right, power and authority to execute and deliver this Agreement and to perform each of their obligations hereunder. The Parties are not subject to any restriction or agreement which prohibits or would be violated by the execution and delivery hereof or pursuant to which the consent of any third person is required in order to give effect to the terms contemplated herein. Each Party agrees to indemnify and hold the other Party harmless from and against all liabilities, losses, fees, costs and/or expenses which may result from a breach of this Article.

41. SEPARABILITY:

If any provisions or part thereof of this Agreement is in conflict with any applicable Federal or State Law or regulation, such provision shall be deemed to be deleted from this Agreement and is thus rendered inoperative, the remaining provisions shall nevertheless remain in full force and effect.

42. UNION LABEL:

The parties agree to study the feasibility of adopting a Union label program.

43. UNION CONVENTIONS:

A. Leave of absence shall be granted, upon request, to not more than two employees in the plant for the purpose of attending a National Union Convention for no longer than five calendar days. Not more than one such convention shall be eligible during the life of this Agreement for this benefit.

B. Four weeks advance notice shall be given to the Employer with the respect to any such requested leave of absence.

C. Employees granted such leaves of absence, shall be paid their normal rate of pay while on such leaves for days that they would have otherwise worked, and in the event that a rate is used to calculate the earnings of the employee, that employee's rate of pay shall be the average daily rate of pay earned by the employee during the proceeding two weeks, and not withstanding any other provisions of this Collective Bargaining Agreement, employees granted such leaves shall be deemed to be employed and at work for all purposes of benefits, vacations, sick leave, seniority and any and all other entitlement calculations and accumulations.

44. PENSION:

See Article 16

45. OTHER LOCATIONS

This Agreement shall, in the circumstances detailed below, apply to other facilities where the Employer is engaged to provide laundry services in New York, New Jersey or Connecticut. Such locations are called "Recognition Locations".

A. Coverage Extended to the Recognition Locations. When a majority of eligible employees performing laundry work covered by this Agreement for the Employer at a Recognition Location have executed cards authorizing the union to represent them as their collective bargaining agent, then the Employer shall recognize the Union and such employees shall be automatically covered by this Agreement, except that the Parties may modify the Agreement regarding economic terms. The Employer and its agents will not discourage employees from supporting the union

B. Coverage Extended to Additions to the Current Operation. Notwithstanding the foregoing paragraph, the provisions of this Agreement shall be applied to all subsequent additions to and expansions of current operations which adjoin and are controlled and utilized as part of the current operation.

C. Coverage Not To Be Extended in Certain Situations. This Agreement shall not apply to an operation of the Employer if the employees are covered by a

collective bargaining agreement other than with Laundry, Dry Cleaning and Allied Workers Joint Board, Workers United.

D. The Employer waives its right to file a petition with the National Labor Relations Board for an election in connection with any demands for recognition provided for in this agreement, provided such demand complies with this Article.

E. The parties agree that when this Agreement is extended to other locations as provided for herein, the parties will meet to discuss whether local conditions require modifications to the economic provisions of this agreement. If the parties agree that modifications are necessary, such modifications will be reduced to writing and included as a local appendix to this Agreement. Once an agreement is reached on this issue for a particular location, there shall be no further requirement on either party to bargain over said terms for the remainder of the term of this Agreement, unless the parties expressly agree to reopen the agreement covering that particular location as part of their settlement regarding economic terms for said location.

46. ETHNIC AND CULTURAL DIVERSITY

The parties recognize that many recent immigrant workers are employed by the Employer, and are a vital element to the success of the facility. While English is the primary language of the workplace, the parties respect the right of all employees to use the language of their choice in the workplace, and the Employer recognizes its obligation to provide all notices, announcements, training material etc., in the appropriate language(s) represented by a material number of employees in the Employer's workforce.

The Employer agrees to cooperate with the Union in the development of an English as a second language program. The program will incorporate material that will help employees to meet citizenship test requirements as well as material to help them with work-related terms and conditions. The program will be conducted at a mutually agreeable location.

In the event that an employee expresses that he or she is experiencing difficulty understanding English in a situation involving a dispute on the shop floor, a possible grievance, possible confusion about work duties and responsibilities, or necessary clarification of questions arising out of this Agreement, he may request the assistance of a translator of his choice, as long as such translator is on the premises.

47. PROTECTION OF IMMIGRANT WORKERS 31

A. Discharge or Suspension of Employees based on information regarding their immigration status and / or citizenship status.

In the event the Employer is legally required to suspend or discharge an employee with one (1) year of service, on account of information and/or documentation obtained concerning his/her immigration or citizenship status, the Employer shall provide any such suspended or discharged employee with one (1) year period in

which he may be reinstated to employment upon the presentation of documentation and/or information establishing his right to be employed by the Employer, provided such position has not been eliminated or is on layoff; and provided that this Article shall be subject to the applicable seniority, layoff or recall from layoff provisions of this Agreement. Upon his reinstatement, any such employee shall be granted the seniority held by the employee on the date of her/his suspension and/or discharge

B. In the event that the Employer is served with a validly executed Search or Arrest warrant, the Employer shall take the following action: To the extent legally possible, arrange for a questioning of employees to occur. in as private a setting as possible in the workplace.

C. The Employer shall grant employees excused absences where given one week's prior notice to attend any appointments scheduled by the INS or U.S. Department of State with respect to immigration or citizenship status of the employee, spouse, child or parent. The Employer may require proof of the appointment and proof of the family relationship.

D. The Employer shall not request information or documents from workers or applicants for employment as to their immigration status except as required by law.

The Employer shall not disclose confidential information concerning workers to any person or government agency except as required by law or in response to the lawful directive of such agency. Confidential information includes names, addresses, and social security numbers.

Should an INS agent demand entry into the Employees premises or the opportunity to interrogate, search or seize the person or property of any Employee, then the Employer shall insist that a search warrant be produced and shall as soon as is reasonably practical, notify the Union by telephone to the Union's office.

48. PHYSICAL PLANT

In any plant first acquired by the Employer after July 1, 2001:

Lunch Room: The Employer shall provide a clean, sanitary lunch area with sufficient room for all employees or operate under a split lunch system so that all employees eating during a single lunch period have an individual lunch space. The lunch area shall be used for breaks, meals, meetings and conferences only.

The Employer shall provide, using best efforts, each employee with a locker or other clean, secure space for the employee to use for personal effects.

49. PREVIOUS WORKING CONDITIONS

Any customs, working conditions, or practices **such as pay-day or lunch-hour, but excluding those that relate to wages and or benefits or other financial conditions**, existing at the time of the execution of this Agreement shall be continued, except for those terms which the parties to this agreement explicitly agreed to modify during the negotiations leading to this agreement. Employees have agreed to specific pay changes, including reductions, and those new wage rates are attached as to this agreement. In no instances, shall employees be deemed as a continuation of the existing Angelica organization in any fashion whatsoever. Employer has agreed to such unusual rates of pay, soley due to the recognition of certain employees experience in the laundry industry.

50. TERM:

This Agreement shall be effective May 1, 2013 and shall continue in full force and effect through April 30, 2016 and shall be automatically renewed from year to year thereafter, unless sixty (60) days prior to the expiration date of this Collective Bargaining Agreement or any renewal thereof, notice in writing by Certified Mail is given by either Party to the other of its desire to propose changes in this Agreement of or its intention to terminate on the expiration date.

51. UNION ACTIVITY

A. Stewards: It is hereby agreed that the Union may have duly accredited representatives to be known as "Stewards" in each plant, to be selected by the Union.

a. There shall be one (1) steward for each first line supervisor and at least one (1) steward per shift. The Union will notify the Employer in writing of the names of the persons selected as steward. At least one steward in each facility shall be a driver.

b. It shall be the duty of the stewards to attempt to the best of their ability to see that the terms, provisions and intentions of the Agreement are carried out and further to handle under the provisions of Article 27 (Grievance Procedure) such grievances as are referred to them.

c. It is further agreed that stewards shall be permitted a minimum of one (1) hour per week with pay in order to carry out their duties but will, before leaving their regularly assigned work to perform such Union duties as specified herein, secure the permission of the appropriate Supervisor or Plant Manager. Such permission shall not be unreasonably denied.

d. The Employer agrees that there shall be no discrimination against stewards.

B. Union Bulletin Board: The Employer shall provide one (1) bulletin board for the exclusive use of the Union which shall be placed near the employees' time clock or in a place to be mutually agreed upon by the parties. Union notices stating the time and place of union meetings, union elections, results of union elections and

appointments, union social affairs and union dues may be posted upon the union bulletin board.

52. MISCELLANEOUS - DELETED

53. DELETED

54. MISCELLANEOUS

This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements or undertakings. This Agreement may be modified or amended only by an instrument in writing signed by the Parties. The various headings in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any of its provisions. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. This Agreement, the performance of this Agreement and its enforcement (including matters arising out of or related to this Agreement or its making, performance or breach), shall be governed by, and construed in accordance with, the internal laws of the State of New York, without regard to its conflict of laws principles or choice of law doctrine. The Employer shall assure that all supervisory personnel attend a sensitivity training session, at least once during the life of the CBA.

PDR SERVICES CORP. OF NEW YORK

BY: Irene McCormack
ITS: VP

LAUNDRY, DISTRIBUTION AND FOOD SERVICE JOINT BOARD

BY:
ITS:

ATTACHMENT I[1]

Letter agreement 600# of Product

Exhibit A - Health
Addendum ExA
Exhibit B — Pension

[1] Attach side letter between FDR and Unite Here, dated July 16, 2007 regarding bin weighing.

EXHIBIT 4

UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

FDR SERVICES CORP. OF NEW YORK, Employer	)	
and	)	Case No. 29-RC-215193
LAUNDRY DISTRIBUTION AND FOOD SERVICE JOINT BOARD, WORKERS UNITED Petitioner	)	

Hearing Officer's Report and Recommendations on Objections

This report contains my findings and recommendations regarding the Employer's objection alleging that the Union subjected employees to fear and intimidation, specifically by visiting unit employees at their homes during a mail ballot election and offering to mark employees' mail ballots. For the reasons contained herein, I recommend overruling the Employer's objection. I further recommend certifying the Petitioner as the collective bargaining representative of the employees in the petitioned-for unit.

Procedural History

On February 20, 2018, Brotherhood of Amalgamated Trades, Local 514, herein called Local 514, filed a petition seeking to represent certain employees employed by FDR Services Corp. of New York, herein called Employer. Laundry Distribution and Food Service Joint Board, Workers United, herein called the Union or the Petitioner, intervened on the basis of a collective bargaining agreement.

Pursuant to an Order Scheduling Mail Ballot Election and Approving [Local 514's] Request to Be Removed From Ballot[1] issued by the undersigned on October 30, 2019,[2] an election by mail ballot was conducted on November 8 among the employees in the following unit:

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[1] On October 23, 2019, Local 514 requested permission to withdraw the instant petition. The Union, a full intervenor, objected to the withdrawal of the petition. On October 24, 2019, the Employer informed the Region that it would not permit the election to take place on its premises on October 25. The Regional Director issued an Order Cancelling Election and Denying Local 514's Request to Withdraw the Petition.

On October 30, 2019, the Regional Director issued an Order Scheduling Mail Ballot Election and Approving [Local 514's] Request To Be Removed From Ballot in which she directed that the election proceed by mail ballot. Mail ballots were mailed to employees employed in the collective bargaining unit set forth in the parties' stipulated election

All full-time and regular part-time employees employed by the Employer, but excluding guards, office employees, clerical employees, confidential employees, and supervisors as defined by the Act.

The Tally of Ballots made available to the parties at the conclusion of the election pursuant to the Board's Rules and Regulations, showed the following results:

Approximate number of eligible voters	197
Number of void ballots	4
Number of ballots cast for Laundry Distribution and Food Service Joint Board, Workers United	103
Number of votes cast against participating labor organization	1
Number of valid votes counted	104
Number of challenged ballots	17
Number of valid votes counted plus challenged ballots	121

Challenges are not sufficient in number to affect the results of the election.
A majority of the valid votes counted plus challenged ballots has been cast for Laundry Distribution and Food Service Joint Board, Workers United.

Thereafter, the Employer filed timely objections to conduct affecting the results of the election. Pursuant to Section 102.69 of the Board's Rules and Regulations, the Regional Director caused an investigation to be conducted concerning the Employer's objections. On December 23, the Regional Director issued and served on the parties a Report on Objections and Notice of Hearing, in which she overruled the Employer's first and third objections and directed that a hearing be held by a duly designated Hearing Officer regarding the Petitioner's second objection alleging that the Union visited employees at their homes and offered to mark employees' ballots for them.

A hearing was held before the undersigned on January 21 and 22, 2020, in Brooklyn, New York. The Employer and Petitioner appeared at this hearing.

In accordance with the Notice of Hearing, and upon the entire record of this case, consisting of the transcript of the hearing and exhibits, including my observation of the demeanor of the witnesses who testified, and the specificity of their testimony, the undersigned issues this Report and Recommendations with respect to the Employer's second objection. [3]

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agreement on November 8. Voters had to return their ballots so that they would be received in the Region 29 office by close of business on December 2. In the October 30 Order, the Regional Director also approved Local 514's request to have its name removed from the ballot.

[2] Unless otherwise specified, all dates are 2019.

[3] References to the transcript are identified as Tr. __. References to the Board, Employer, and Petitioner's exhibits will be cited as Bd. Ex. __, Er. Ex. __, and Pet. Ex. __, respectively.

THE OBJECTION

Objection No. 2: Offer of Assistance with Ballots

In its second objection, the Employer alleges that the Union subjected employees to fear and intimidation, specifically by visiting employees at their homes during the mail ballot and offering to mark employees' mail ballots.

The Employer presented three employee witnesses, Angela Torres, Maria Robles, and Rena Rodriguez. In addition, the Employer presented testimony from four Union representatives, Dario Almanzar, Megan Chambers, Marcia Almanzar, and Alberto Arroyo. The Union presented one witness, Maria Rivas, an employee of the Employer who serves as an assistant shop steward.

Employee Angela Torres and Union Representative Dario Almanzar

Angela Torres works in the Employer's ironing department and has worked for the Employer for over thirty years. Tr. at 48-49. Torres testified that she received her mail ballot in November or December. Torres testified that two Union representatives came to her house. On redirect, Torres testified that the Union representatives came to her house twice. Tr. at 73. She did not specify when either visit occurred. Torres identified one of the representatives as "Dario," but could only identify the second representative as "Marcia" after reviewing an affidavit she had previously given.[4] On cross examination, Torres testified that she could not understand the entire affidavit because it was in English. Tr. at 64, 69. Torres also testified that she did not mention anyone's name when she gave her affidavit to the Employer. Tr. at 61.

Torres testified that when the Union representatives came to her house, they wanted to speak to her about how to fill out the mail ballot, but that she did not let them in. Tr. at 50. Specifically, Torres testified that the Union representatives said, "Here, I want to show you how to write, what to do." Tr. at 73. Torres did not specify which Union representative made this comment. After being asked in a leading manner on direct examination if anyone from the Union offered to mark her ballot, she replied that the Union representatives wanted to mark her ballot, but reiterated that she did not let them. Tr. at 51.

Torres testified that she heard from other employees that Dario and the woman wanted to fill out other people's ballots, but did not know if other workers accepted the Union representatives' help. Tr. at 52-53. Torres declined to identify any co-workers who made such comments to her. Tr. at 56.

Dario Almanzar testified that he made only one home visit to an employee of the Employer, although he knocked on the doors of approximately ten to fifteen employees. Tr. at 108. The one employee he visited with was Evelyn (he did not know her last name). During this visit, Evelyn completed her mail ballot while Dario waited in another room. He offered to take Evelyn to the post office because he knew that she did not have a car. She declined his offer. Tr. at 114. Evelyn was the only employee Dario offered to take to the post office. Tr. at 114. Dario testified that he did not mark any employees' ballots, offer to mark any employees' ballots, or offer to mail any employees' ballots. Tr. at 113-14.

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[4] This affidavit was prepared by the Employer and submitted with the Employer's offer of proof. Torres testified that the Employer's owner was present with the Employer's attorney while she gave her affidavit. Tr. at 60.

Credibility

After observing the demeanor and listening carefully to the testimony of the foregoing witnesses I do not credit the testimony of Angela Torres. Her testimony was extremely vague and inconsistent. For example, she did not specify when the Union representatives visited her home. On redirect, she testified that they visited her twice, but it was not clear that from her testimony on direct examination that there were two visits. Moreover, she could not recall the identity of one of the Union agents who visited her home without referring to an affidavit she had provided to the Employer. She testified, however, that she could not fully understand the affidavit because it was in English. Significantly, Torres also testified that she had not given anyone's name when she gave her affidavit to the Employer. Torres stated that she heard from other employees that Union representatives wanted to fill out other people's ballots, but declined to identify any employees who told her this. As I stated during the hearing, I do not rely on this hearsay testimony. Finally, after observing her demeanor, I note that she appeared nervous and hesitant on cross-examination. For these reasons, I do not find Torres a credible witness.

I generally credit the testimony of Dario Almanzar. He testified in a straightforward, honest, and clear manner.

Employees Maria Robles and Maria Rivas

Maria Robles works as a packer and has worked for the Employer for approximately 19 years. Tr. at 80. Robles received the mail ballot in November. Tr. at 81. Robles testified that someone came to her house before she received the mail ballot, but she did not let them in. When asked who came to her house, she testified that she could not say who it was. Tr. at 82.

Robles testified that Maria Rivas, a co-worker, asked Robles if she had received the ballot. It is uncontroverted that Rivas is an assistant shop steward for the Union, but Robles testified that she did not know if Rivas held a Union position. Robles testified that when Rivas initially asked about the ballot, Robles had not received it. Rivas asked Robles about the ballot a second time. At that point, Robles told Rivas that she had the ballot, but did not know how to complete it. Rivas offered to help Robles complete the ballot. Robles said she did not want to fill the ballot out at work. According to Robles, Rivas offered to go to Robles' house to help her fill out the ballot. When Rivas called her the next day, Robles told Rivas that she was not home. Robles filled out her ballot by herself. Tr. at 82.

Maria Rivas testified that she has worked for the Employer for twenty-seven years. With regard to Rivas's role as an assistant shop steward, Marcia Almanzar, a Union representative, testified that Rivas has been trained to be present if an employee is disciplined at work. Tr. at 133. Rivas testified that as a shop steward, she represents employees when the Employer needs a Union representative present. Tr. at 161.

With regard to her conversations with Robles, Rivas testified that she spoke to Robles about the mail ballot on two occasions. During the first conversation, which occurred at work, Rivas asked Robles if she had received her ballot. Robles said that she had received it and that she was confused because there were a lot of envelopes. According to Rivas, Robles asked if Rivas could help her complete the "process of the envelopes." Tr. at 162-63. Rivas advised Robles to call the Union, but Robles said she did not want anyone from the Union at her house. Robles asked Rivas

to call her when Rivas finished work. Rivas called Robles, but Robles did not answer the phone. Tr. at 163. Rivas testified that she had a second conversation with Robles at work a couple of days later. Tr. at 163. Rivas asked if Robles had completed the mail ballot. Robles said that she had. Tr. at 163-64. Rivas did not see Robles vote because Robles voted at home. Tr. at 165. Rivas testified that she did not offer to mark or collect Robles' ballot. Tr. at 164.

Credibility

I generally credit the testimony of Robles and Rivas. Both testified in a clear and straightforward manner. The testimony of these witnesses is substantially consistent. Although their accounts differ on a couple of details, such as whether Robles asked for help or Rivas offered help when Robles said she was confused by the envelopes, I do not find that those differences were significant.

Employee Rena Rodriguez and Union Representative Marcia Almanzar

Rena Rodriguez has worked for the Employer for approximately two years. Tr. at 85. Rodriguez testified that Marcia, a Union representative, and another woman Rodriguez could not identify visited her at her home. Marcia asked Rodriguez if the ballot for the election had arrived and Rodriguez showed Marcia her ballot, stating that she did not know how to complete the ballot. Rodriguez explained that Marcia "told me what I had to do, where I had to sign, and where to put stuff, what envelope to put in. And then once I did it, she asked me if I know where there was a mailbox." Marcia offered Rodriguez a ride to the mailbox, but Rodriguez declined because she had to stay home with her children. Rodriguez told Marcia that she would give the envelope to her husband to mail. Tr. at 88. Rodriguez further testified that while at her house, Marcia was calling other employees and arranging to visit them as well. Rodriguez does not know with whom Marcia was speaking. Tr. at 89.

Marcia Almanzar testified that she met with approximately ten to twelve unit employees in their homes during the campaign, including Rena Rodriguez. Tr. at 131. Marcia testified that she spoke to employees about how to fill out the ballots because many of the employees could not read the ballot. Tr. at 132-33. Marcia stated that she did not help any employees fill out their ballots and that she was not present when any employees voted. Marcia testified that she did not collect any ballots from employees and that she never touched anyone's ballot, ballot package, or ballot envelope. Tr. at 133, 135.

Marcia testified that she offered to take Rodriguez to the post office because she knew that Rodriguez did not have a car. She did not give Rodriguez a ride to the post office. Tr. at 132, 135. Marcia stated that she made the same offer of transportation to two or three employees, but did not specify if any of the other employees accepted her offer of transportation to the post office. Tr. at 132.

Credibility

I generally credit the testimony of Rodriguez and Marcia Almanzar. Both testified in a clear and straightforward manner. The testimony of these witnesses is substantially consistent.

Other Testimony

The Employer also called Alberto Arroyo and Megan Chambers, who serve as managers of the Union. Neither of these witnesses were substantially involved in the campaign. There is no evidence that Arroyo or Chambers made home visits to any unit employees or spoke to any employees about their ballots.

Discussion

General Principles

It is well-settled that the Board will not set aside a representation election lightly. *See In re Safeway. Inc.*, 338 NLRB 525, 525-26 (2002). There is a "strong presumption that ballots cast under specific NLRB procedural safeguards reflect the true desires of employees." *Id.* at 525, *quoting NLRB v. Hood Furniture Mfg. Co.*, 941 F.2d 325, 328 (5th Cir. 1991). An objecting party has the burden of proving its allegations, and that burden is a heavy one. *See also Mastec North America. Inc. d/b/a Mastec Direct TV Employer*, 356 NLRB 809 (2011), *citing Kux Mfg. co. v. NLRB*, 890 F.2d 804, 806 (6th Cir. 1989).

When evaluating alleged objectionable conduct, the Board employs an objective test to determine "whether the conduct of a party to an election has the tendency to interfere with the employees' freedom of choice." *Cambridge Tool & Mfg. Co.*, 316 NLRB 716, 716 (1995). The Board examines several factors, including:

1. the number of the incidents of misconduct;
2. the severity of the incidents and whether they were likely to cause fear among the employees in the bargaining unit;
3. the number of employees in the bargaining unit subjected to the misconduct;
4. the proximity of the misconduct to the election date;
5. the degree of persistence of the misconduct in the minds of the bargaining unit employees;
6. the extent of dissemination of the misconduct among the bargaining unit employees;
7. the effect, if any, of misconduct by the opposing party in canceling out the effect of the original misconduct;
8. the closeness of the final vote; and
9. the degree to which the misconduct can be attributed to the union.

Avis Rent-a-Car System, 280 NLRB 580, 581 (1986).

The Legal Standard

It is not objectionable to offer a voter assistance with a mail ballot as long as a party does not collect or solicit a voter's ballot. In *Grill Concepts Services, Inc.*, 2019 WL 2869823 (NLRB, June 28, 2019), union representatives visited voters' homes and offered to help employees fill out their mail ballots. The evidence in that case demonstrated that union representatives asked voters if they had received their ballots and offered to explain the process for correctly filling out the ballot. The Board found that the offer to assist employees vote was not objectionable because it did not involve solicitation or collection of ballots. The Board noted that the record in that case did not "establish that the [union's] representatives sought to physically assist voters in filling out the ballot, sought to have the voters record their votes in the representatives' presence, or engaged in any other conduct that could reasonably be viewed as coercive or imperiling the integrity of the mail ballots in this election." Id. at *2. In *Fessler & Bowman, Inc.*, 341 NLRB 932 (2004), by contrast, union agents offered to mail voters' completed mail ballots for them. Union agents collected and mailed two completed, sealed ballots for employees. Although there was no evidence that the union agents had tampered with the ballots, the Board set the election aside finding that mail ballot collection by a party casts doubt on the integrity of the Board's election process and undermines the secrecy of the election. Id. at 934. The Board split on whether the solicitation of mail ballots without the actual collection of those ballots was objectionable. Under this legal standard, the Employer has not established that the Employer engaged in objectionable conduct.

Application to the Present Case

Torres

As explained above, I do not credit Torres's testimony. I have credited the testimony of Dario Almanzar and Marcia Almanzar, the two Union representatives whom Torres alleges visited her house, that they did not solicit, mark, or collect mail ballots from any unit employees. There is no credible evidence that the Union solicited, marked, or collected Torres's ballot.[5]

Robles

Maria Robles testified that co-worker and assistant shop steward Maria Rivas asked if Robles had received her ballot. Robles told Rivas that she did now know how to fill out the ballot and Rivas offered to help her.[6] When Rivas called Robles, Robles told Rivas that she could not meet. Robles testified that she filled out her ballot by herself.

As an initial matter, the Employer has not established that Rivas is an agent of the Union for purposes of this objection. Rivas serves as an assistant shop steward. Serving as a shop steward does not necessarily confer agency. *See Narragansett Restaurant Corp.*, 243 NLRB 125, 128 (1979). The Board employs traditional agency principles to determine when an individual is an agent. In *International Brotherhood of Teamsters, General Drivers, Chauffeurs and Helpers Local Union No. 886 (Lee Way Motor Freight, Inc.)*, 229 NLRB 832, 832-33 (1977), the Board noted that it "is enough if the principal actually empowered the agent to represent him in the general area

[5] Even if I were to credit Torres's testimony that the Union representatives offered to mark her ballot, an offer which she consistently testified that she refused, this single instance of such conduct would not invalidate this election in which the Union prevailed by over one hundred votes, as discussed in greater detail below.

[6] According to Rivas, Robles asked Rivas to help her with the ballot because she was confused by the envelopes.

within which the agent acted." (*citing International Longshoremans's and Warehousemen's Union, C.I.O., Local 6 (Sunset Line and Twine Co.)*, 79 NLRB 1487, 1509 (1948)). In that case, the Board found that the shop steward in question was an agent of the union based on the shop steward's authority as expressly granted in the union's bylaws, including the power to investigate and present grievances to management and to transmit messages and information from the union. In this case, the only duties Rivas performs as a shop steward is to be present in disciplinary meetings between the Employer and unit employees. There is no evidence that Rivas has any additional authority. For example, there is no evidence that she can investigate or initiate grievances, or speak to the Employer or employees on behalf of the Union, as the shop steward in *Lee Way Motor Freight* could. The evidence of Rivas's limited authority as a shop steward is not enough to support a finding that Rivas acted as a Union agent while talking to Robles. *See United Builders Supply Co.*, 287 NLRB 1364 (1988) (declining to find that an employee was an agent of the Union where the employee did not, *inter alia*, hold himself out as a union representative or speak on behalf the union). Moreover, Robles did not know that Rivas serves as a shop steward, so there is no apparent agency because Robles could not have understood that Rivas was speaking on behalf of the Union. *See Id.* at 1364-65 (declining to find apparent agency where there was no "manifestation" that the employee was acting on behalf of the union).

Even if Rivas were a Union agent, as explained above, it is not objectionable to offer a voter assistance with a mail ballot, as Rivas did in this case. There is no evidence that Rivas or any Union agent attempted to solicit or collect Robles' ballot.

Rodriguez

Rodriguez testified that she received a visit at her home from Marcia Almanzar along with another union representative that Rodriguez did not identify. Marcia asked if Rodriguez received her ballot and Rodriguez showed Marcia the ballot, stating that she did not know how to complete the ballot. According to Rodriguez's account, Marcia told her "what [she] had to do, where [she] had to sign, and where to put stuff, what envelope to put it." Rodriguez testified that she completed her own ballot. Marcia testified that she did not complete or collect any ballots from employees. There is no evidence that Marcia collected or solicited Rodriguez's ballot.

Offer of Transportation

It is not objectionable for an Employer to offer employees transportation to the polls as long as the offer is made to all employees indiscriminately. *See John S. Barnes Corp.*, 90 NLRB 1358 (1950). The evidence shows that two Union representatives, Dario Almanzar and Marcia Almanzar, offered to take three to four employees to the post office to mail their ballots. Both Dario and Marcia stated that they made the offers because they knew that employees did not have cars to drive themselves. There is no evidence that either Union representative made these offers in any sort of discriminatory manner. Accordingly, I do not find that this conduct is objectionable under the Board's precedent.

Union Agents' Presence While Employees Voted

In *Grill Concepts*, the Board noted that it might be coercive if a representative of a party were present while an employee completed a mail ballot. The evidence demonstrates that Union representatives were present in two employees' homes while these employees voted, although at least one representative remained in another room while the employee filled out her ballot. Union

representative Dario Almanzar testified that he visited an employee named Evelyn and that Evelyn completed her mail ballot in another room while Dario was at her home. Union representative Marcia Almanzar remained at employee Rena Rodriguez's home while Rodriguez voted. I note that Rodriguez did not testify whether Marcia remained in the same room while she filled out her ballot. Marcia testified that she was not present while any employees voted. In neither of these cases did the Union representative collect the employees' ballot.

Assuming it were objectionable for the Union representatives to remain in the employees' homes while they voted, even if in another room, the Employer has not demonstrated that these two instances could have affected the results of the election. As explained above, when considering whether objectionable conduct could have affected the outcome the election, the Board examines the number of violations, the severity of those violations, the extent of dissemination, the size of the unit, the closeness of the election results, the proximity of the objectionable conduct to the election date, and the number of unit employees affected. *See Bon Appetit Management Co.*, 334 NLRB 1042, 1044 (2001).

In the present case, the Petitioner prevailed by 103 votes to 1. As noted above, the tally of ballots is a relevant factor to be considered when determining whether alleged objectionable conduct could have affected the results of an election. *See Sanitation Salvage Corp.*, 359 NLRB 1129 (2013) (finding that the Board will not set aside an election if the number of employees affected by objectionable conduct is insufficient to affect the outcome election); *Hopkins Nursing Care Center*, 309 NLBR 958, 959 fn. 8 (1992) (finding that the closeness of an election was due "great weight' when deciding whether conduct is objectionable). Given that the Union prevailed by over one hundred votes, two instances of objectionable conduct with no evidence of dissemination could not have affected the results in this case.

The Employer repeatedly argued that any objectionable conduct, even one isolated instance, is enough to invalidate the entire election and necessitate a new election. This argument, however, is not consistent with the Board's precedent, as explained above. In fact, in *Fessler & Bowman*, having found that the union collected voters' ballots, the Board explicitly examined the potential affects of that conduct on the results of the election. The Board set that election aside only after finding that the two instances of objectionable conduct could have affected the results of the election given the closeness of the tally in that case. *See Fessler & Bowman*, 341 NLRB at 935. Accordingly, I reject the Employer's contention that even a single instance of objectionable conduct would invalidate the election results in this case. I do find that the presence of two Union representatives in the homes of two voters while those voters voted could have affected the results of this election.

For the reasons stated above, I make the following recommendation:

Recommendation

Based on the foregoing, I recommend overruling the Employer's second objection. Accordingly, I further recommend that the Petitioner be certified as the exclusive collective bargaining agent of the following appropriate unit:

All full-time and regular part-time employees employed by the Employer, but excluding guards, office employees, clerical employees, confidential employees, and supervisors as defined by the Act.

APPEAL PROCEDURE

Pursuant to Section 102.69(c)(1)(iii) of the Board's Rules and Regulations, any party may file exceptions to this Report, with a supporting brief if desired, with the Regional Director of Region 29 by March 9, 2020. A copy of such exceptions, together with a copy of any brief filed, shall immediately be served on the other parties and a statement of service filed with the Regional Director.

Exceptions must be e-filed through the Agency's website but may not be filed by facsimile. To e-file the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions.

Pursuant to Sections 102.111-102.114 of the Board's Rules, exceptions and any supporting brief must be received by no later than 11:59 p.m. Eastern Time on the due date.

Within 7 days from the last date on which exceptions and any supporting brief may be filed, or such further time as the Regional Director may allow, a party opposing the exceptions may file an answering brief with the Regional Director. A copy of such answering brief shall immediately be served on the other parties and a statement of service filed with the Regional Director.

Dated at Brooklyn, New York, on February 24, 2020.

Rachel Zweighaft
Hearing Officer
National Labor Relations Board, Region 29
Two MetroTech Center
Brooklyn, NY 11201